EDITOR'S NOTE:

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

91-782

No. _____

Supreme Court, U.S.
FILED
SEP 18 1991
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1991

JORGE ROCA-SUAREZ,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MICHAEL D. ABZUG
3580 Wilshire Boulevard
Suite 1745
Los Angeles, California 90010
(213) 389-3868

Attorney for Petitioner
JORGE ROCA-SUAREZ

Lorraine Mitchell Legal Briefs

732 E. WASHINGTON BOULEVARD
LOS ANGELES, CALIFORNIA 90021-3088
(213) 747-5631 • FAX (213) 747-5843

CONTENTS REPRODUCED FROM FURNISHED PRETYPED COPY

QUESTION PRESENTED

Was the Petitioner denied his right to due process of law and to be confronted with witnesses against him when he was detained pending trial on the basis of sworn declarations of witnesses who he was not allowed to cross-examine despite his proffer that their information was untrue?

TOPICAL INDEX

		Page
Question Presented		i
Table of Authorities		iii
I.	OPINIONS BELOW	2
II.	JURISDICTION	2
III.	CONSTITUTIONAL PROVISIONS INVOLVED	3
IV.	STATEMENT OF FACTS	3
V.	REASONS FOR GRANTING THE WRIT	15
VI.	CONCLUSION	25

EXHIBITS

A. MEMORANDUM AND ORDER DENYING PETITIONER'S MOTION FOR BAIL

B. UNPUBLISHED MEMORANDUM OPINION

C. REPORTER'S TRANSCRIPT OF DETENTION HEARING

D. DECLARATIONS OF SPECIAL AGENTS STEPHEN SKAGGS, KENT GREENBERG and GARY INTINARELLI

TABLE OF AUTHORITIES

Cases	Page
Barber v. Page, 390 U.S. 719 (1967)	21
Morrissey v. Brewer, 408 U.S. 471 (1972)	21, 23
State v. Engel, 493 A.2d 1217 (1985)	17
Turner v. United States, 396 U.S. 398 (1970)	20
United States v. Delker, 757 F.2d 1290 (3rd Cir. 1985)	16
United States v. Edwards, 430 A.2d 1321 (D.C.App. 1981) (en banc), cert. denied, 755 U.S. 1022 (1982)	20
United States v. Gaviria, 828 F.2d 667 (11th Cir. 1987)	19, 20
United States v. Hazzard, 598 F.Supp. 1442 (N.D.Ill. 1984)	22
United States v. Matir, 782 F.2d 1141 (2nd Cir. 1986)	20, 24
United States v. Perez-Pachari, 691 F.Supp. 241 (D.Hawaii 1987)	24
United States v. Perry, 788 F.2d 100 (3rd Cir.), cert. denied, 479 U.S. 864 (1986)	18

United States v. Terrones,
712 F.Supp. 786 (S.D.Cal. 1989) 17, 23

United States v. Winsor,
785 F.2d 755 (9th Cir. 1986) 9, 16

CONSTITUTIONAL PROVISIONS

United States Constitution,
Fifth Amendment 3, 16

Sixth Amendment 3, 16, 18, 20, 25

RULES AND STATUTES

Local Rules of Central
District of California
Rule 9.4 22

Title 18, United States Code,
Section 3142(c)(B)(xi) 6

Section 3142(f) 15, 18

Title 21, United States Code,
Section 848(b) 4

62 Stat. 928,
28 United States Code
Section 1254(1) 2

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1991

JORGE ROCA-SUAREZ,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Petitioner, JORGE ROCA-SUAREZ, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit, entered in the above-entitled case on August 19, 1991.

I

OPINIONS BELOW

On July 19, 1991, the District Court for the Central District of California filed a Memorandum and Order which denied the Petitioner's motion for bail. A copy of the Memorandum and Order is attached as Exhibit "A". On August 19, 1991, the United States Court of Appeals for the Ninth Circuit affirmed the ruling of the district court in an unpublished memorandum opinion which is attached as Exhibit "B".

II

JURISDICTION

The unpublished memorandum of opinion the Court of Appeals was filed on August 19, 1991. The jurisdiction of this Court is invoked pursuant to 62 Stat. 928, 28 U.S.C. Section 1254(1).

III

CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment of the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy ... [the right] to be confronted with the witnesses against him; ..." The Fifth Amendment of the United States Constitution provides that "(N)o person (shall) be deprived of life, liberty, or property, without due process of law..."

IV

STATEMENT OF FACTS

On November 1, 1990, a sealed indictment was filed in the Southern District of California which charged the Defendant and nineteen others with committing a variety of substantive violations of the laws

prohibiting narcotics trafficking and conspiring to do so. Mr. Roca was also charged with being a principal administrator of a narcotics organization in violation of Title 21, United States Code, Section 848(b). On November 20, 1990, a sealed indictment was filed in the Central District of California which charged the Petitioner with tax evasion.

On December 13, 1990, the Petitioner was arrested near his home in San Marino, California. (Page 61, Reporter's Transcript of the Detention Hearing on July 10, 1991 before United States District Judge Earl B. Gilliam, attached as Exhibit "C").

On January 18, 1991, the Petitioner entered a plea of not guilty in the United States District Court in San Diego. Based on the representations made to the Court by the parties, the matter was declared "complex" within the meaning of the Speedy Trial Act.

Trial has been scheduled to begin on March 3, 1992.

On January 28, 1990, the Petitioner appeared before United States District Judge Stephen V. Wilson in the Central District of California for a status conference on the tax evasion case. All parties agreed to continue that case sine die pending the outcome of the narcotics prosecution in the Southern District of California.

On June 12, 1991, the Petitioner filed his motion for release on bond in the Southern District of California upon the posting of a $550,000.00 fully justified appearance bond, with no cash deposit, upon the following terms and conditions:

a. That the Petitioner satisfy the Court that the source of his collateral for the $550,000.00 on appearance bond is completely unassociated with the proceeds of any illegal activity.

b. That pursuant to Title 18, United States Code, Section 3142(c)(B)(xi), Mr. Roca and his family execute agreements to forfeit all their interest in over four million dollars in assets should he fail to appear as required.

c. That Mr. Roca wear an electronic monitoring bracelet twenty-four hours a day which will be monitored at his expense by Electronic Supervision Services, 2461 West 205th Street, Suite B-104, Torrance, California 90501.

d. That the Petitioner is restricted to 1876 Hidleman Road, Los Angeles, California, unless he receives specific written permission to leave by the Pre-Trial Services Agency for the Central District of California as well as Electronic Supervision Services.

On July 5, 1991, the prosecution filed its Response and Opposition to the Petitioner's Motion for Bail. As the sole evidentiary

support for its Opposition, the prosecution attached the sworn declarations of three law enforcement officers; Special Agent Stephen Skaggs of the Drug Enforcement Administration, Special Agent Kent Greenberg of the Internal Revenue Service, and Special Agent Gary Intinarelli of the United States Customs Service. (Copies of these declarations are attached as Exhibit "D".)

Special Agent Intinarelli's declaration stated that close to four million dollars in United States currency had been intercepted in the Spring of 1986 by the United States Customs Service. This currency was secreted in electrical appliances purchased from Howard's Appliance and T.V. in Los Angeles and was seized en route from Los Angeles to Santa Cruz, Bolivia. Special Agent Intinarelli added that "Jorge Roca-Suarez, his family members and associates, "(had) purchased numerous items from Howard's." Special

Agent Intinarelli's declaration also stated that in the Spring of 1986, $879,730 in United States currency was seized from Emilio Diaz and that he had documented "direct ties" between this individual and the "Roca-Suarez family." Agent Intinarelli further advised the court that (1) "Jorge Roca-Suarez had been the intended recipient of 1.15 million dollars in United States currency in Miami, (2) after the defendant's arrest "10 - 12 million" in real estate was seized by the Government and, (3) "all of the assets seized were belived to have been purchased with proceeds from Jorge Roca-Suarez's narcotics trafficking activities."

Special Agent Greenberg's declaration stated that "prior to 1985, the Roca's owned very little," but that during 1985 to 1986 cash deposits of roughly 2.3 million dollars were made into escrow accounts for the purchase of real estate in Los Angeles County.

On July 9, 1991, the Petitioner filed his Reply to the Government's Opposition to his Motion for Bail. In this Reply, the Petitioner made specific proffers as to the incorrect and misleading allegations which were contained in the declarations submitted by three government agents. The defense concluded its proffer with an assertion "that it (was) entitled to cross-examine the agents since it (had) submitted proffers that their information (was) incorrect. United States v. Winsor, 785 F.2d 755, 757 (9th Cir. 1986)."

On July 10, 1991, the parties appeared before United States District Judge Earl B. Gilliam for a hearing on the bail motion. The defense began the hearing by moving for permission to cross-examine the government's declarants. Alternatively, the defense argued that the prosecution's refusal to make the declarants available for cross-examination prevented the Court from relying

upon their information. (Page 8, Exhibit "C") In response to an inquiry by the Court, the prosecution conceded that Petitioner's right to cross-examine the declarants if he made a proffer that their information was inaccurate. (Page 10, Exhibit "C") The defense then made an extensive oral proffer as to the many important inaccuracies contained in the declarations which had been filed with the Court. (Pages 10-24, Exhibit "C")

In summary, with regard to Agent Intinarelli's declaration, the defense proffered that the shipping documents connected to the electrical appliances intercepted by the United States Customs Service in 1986 did not reflect that "Mr. Roca or any member of his family" were connected to the shipment or intended receipt of those articles. The defense further proffered that the invoices for the purchase of these appliances at Howard's did not bear the names of Mr. Roca

or any member of his family. In addition, the defense proffered that the only "direct ties" between Emilio Diaz and the Roca family were that he worked as a handyman for them and that other than that there was "utterly no connection...to any member of the Roca family with the seizure of $879,000 three years ago. (The Petitioner) wasn't questioned about it (or) charged." (Page 13, Exhibit "C") The defense went on to proffer that "the government (had) no information whatsoever from any witness or documentation that Mr. Roca was the "intended recipient of 1.1 million dollars that was seized from Roberto Ortiz." The defense proffered that after Mr. Ortiz was arrested, he only gave a room number and Mr. Roca's name. Mr. Roca was subsequently questioned before a grand jury, was never charged with any criminal act, and the $31,000 in currency which he had in his possession at the time of Mr. Ortiz' arrest

was returned to him by the government. (Page 14, Exhibit "C") The defense proffered that Mr. Roca did not own 10 - 12 million in property at the time of his arrest; rather, the United States Marshall Service had independently evaluated his holdings and found equity in roughly one-half that amount. Finally, the defense proffered that "if Special Agent Intinarelli (were) cross-examined he would admit that the government (had) not been able to trace any of the assets of Mr.Roca to any particular drug transactions and that in 1985, Mr. Roca received a substantial gift from his mother amounting to $1.5 million, that this gift was disclosed to the Internal Revenue Service and that Mr. Roca paid over $300,000 in gift tax on (that) money." (Page 17, Exhibit "C")

With regard to Special Agent Greenberg's declaration, the defense proffered that he would admit on cross-examination that his

examination of the Roca's wealth was restricted to the State of California and did not include assets outside the United States or the $1.5 million dollars gift that he received in 1985 from his mother. (Page 17, Exhibit "C") The defense proffered that Special Agent Greenberg made a mathematical error in computing the Rocas' cash deposits into escrow of approximately $500,000 and that the true amount was 30% less than his estimate under oath. Finally, the defense proffered that all of the cash deposits identified by Special Agent Greenberg were made in the Rocas' names; that is, "there was no attempt to purchase property under nominee names." (Page 18, Exhibit "C") Following this proffer, the Court directed DEA Special Agent Stephen Skaggs to take the witness stand to respond. (Page 24, Exhibit "C")

At the conclusion of Agent Skaggs' testimony, the defense renewed its motion to preclude consideration of the declarations of Agents Greenberg and Intinarelli on the ground that Special Agent Skaggs' testimony did not respond to its proffer that those agents' declarations were inaccurate. (Pages 120-21, Exhibit "C") The Court denied that motion and received the declarations into evidence. (Page 122, Exhibit "C")

On July 19, 1991, the Court filed a Memorandum and Order which denied the Defendant's motion for bail. The Opinion relied upon allegations contained in the declarations which the Court received over the Petitioner's objections.

On July 25, 1991, the Petitioner filed a timely Notice of Appeal to the Court of Appeals for the Ninth Circuit.

On August 5, 1991, the Petitioner filed a Motion for Release Pending Trial in the Court of Appeals.

On August 12, 1991, the prosecution filed its response.

On August 19, 1991, the Court of Appeals affirmed the lower court's ruling and denied the Petitioner's Motion for Release on Bond.

V

REASONS FOR GRANTING THE WRIT

There is a conflict between the Circuits on the interpretation of a defendant's constitutional rights to confront witnesses against him and to due process of law and that portion of Title 18, United States Code, Section 3142(f) which provides that at a detention hearing "... the person shall be afforded an opportunity ... to cross-

examine witnesses who appear at the hearing ..."

The Ninth Circuit has held that "the accused has no right to cross-examine witnesses at a detention hearing who have not been called to testify." United States v. Winsor, 785 F.2d 755, 756 (9th Cir. 1986). The Court qualified this holding, however, by adding that a defendant could cross-examine a non-testifying witness if he made a proffer that the information was incorrect. The Circuit did not specify whether this proffer had to be made in writing or under oath.

The problem of reconciling the Fifth and Sixth Amendment protections with a defendant's statutory right to cross-examine adverse witnesses at a detention hearing has also been recognized by the Third Circuit in United States v. Delker, 757 F.2d 1390 (3rd Cir. 1985). However, the Third Circuit

decided "not to address the issue of whether a defendant may have a right to confront non-appearing Government witnesses when he can make a specific proffer to the Court of how the witnesses testimony (will assist the defendant)."

Other courts have likewise struggled to fashion rules to "guarantee that hearsay evidence proffered at a bail hearing is sufficiently reliable to constitute a reasonable substitute for the right of confrontation and an appropriate protection of the defendant's liberty." State v. Engel, 493 A.2d 1217, 1225 (1985); United States v. Terrones, 712 F.Supp. 786, 791 (S.D.Cal. 1989) (a court may "selectively insist on the production of evidentiary sources at a detention hearing when there is a question as to its accuracy.")

This case presents the following questions for review:

1. Do witnesses who have filed sworn declarations in Court which are received into evidence "appear" at the detention hearing within the meaning of Title 18, United States Code, Section 3142(f); if so, does the Sixth Amendment and that statute entitle the defendant to cross-examine them? See, United States v. Perry, 788 F.2d 100, 106 (3rd Cir.) cert. denied, 479 U.S. 864 (1968) (where the Bail Reform Act was satisfied because the defendant "had a full opportunity to cross-examine witnesses who testified at the detention hearing.")

2. If a witness who has filed a sworn declaration which is received into evidence does not "appear" at the detention hearing within the meaning of the statute, does the Sixth Amendment entitle the defendant to cross-examine that witness if he makes a proffer that that information is incorrect; if so, is the unsworn proffer

of his counsel sufficient? See, United States v. Gaviria, 828 F.2d 667, 670 (11th Cir. 1987) (In order to examine an adverse witness at a detention hearing, the defendant must proffer "in detail" how that witness is expected to controvert the prosecution's contention that there is a substantial probability of flight.)

3. Under what circumstances, if any, may a court constitutionally refuse to allow cross-examination of a witness when a defendant makes a proffer that the information which he provided to the court is incorrect?

The need for guidance on these questions is pressing. As the Second Circuit recognized, "(while) Congress clearly did not envision that a formal evidentiary hearing would be needed to resolve competing claims under the flight presumption, ... the act is silent concerning how the government is to proceed at a detention hearing ..."

United States v. Matir, 782 F.2d 1141, 1145 (2nd Cir. 1986). Similarly, the legislative history of the pre-cursor to the Bail Reform Act "does not discuss the scope of cross-examination permitted of witnesses who are called by the government." United States v. Gaviria, supra, at 669-70 (citing United States v. Edwards, 430 A.2d 1321 (D.C. App. 1981) (en banc), cert. denied, 755 U.S. 1022 (1982). Indeed, in this very case, the Memorandum Opinion which denied the Petitioner's application for bail cited this Court's observation that"'(t)he quantium and nature of proof constitutionally required to support an inference of knowledge in narcotics offenses is not always an easy question. Turner v. United States, 396 U.S. 398 (1970)" (Page 7, Exhibit A; emphasis supplied).

The primary object of the confrontation clause of the Sixth Amendment is to

prevent ex parte evidence from being used against a prisoner in lieu of cross-examination by which the accused has the opportunity to test adverse evidence. Barber v. Page, 390 U.S. 719, 721 (1967). The right to confront adverse witnesses is an essential and fundamental requirement for the fair trial guaranteed by the due process clause. Id. Pre-trial detention implicates a liberty interest and may not be imposed contrary to mandates of Procedural Due Process. See, e.g., Morrissey v. Brewer, 408 U.S. 471, 482 (1972).

In this case, the Petitioner claims that the lower court's failure to allow him to cross-examine government witnesses whose declarations were received into evidence was fundamentally unfair and denied him his statutory and constitutionally guaranteed rights to confront witnesses who appeared against him. Compare, United States v.

Hazzard, 598 F.Supp. 1442, 1453 (N.D.Ill. 1984) (where the district court ruled that the use of hearsay was not so fundamentally unfair as to rise to the magnitude of a constitutional violation where the defendant was permitted to question the government witnesses at the detention hearing).

There is little question that Agents Intinarelli and Greenberg "appeared" at the hearing against the defendant since their sworn declarations were received in evidence. See, e.g., Rule 9.4 of the Local Rules of the Central District of California which provides that "all declarants in support of or opposition to a motion to suppress shall be made available for cross-examination at the hearing of the motion, unless the opposing party does not dispute the facts contained in the declaration." The prosecution gave no justification for its refusal to make declarants Intinarelli and Greenberg

available for cross-examination other than its bare claim that the Petitioner was not entitled to it. Compare, Morrissey v. Brewer, supra, at 487 and 492, where the Supreme Court ruled that the constitutional right of cross-examination could be curtailed if the witness would be subjected to risk of harm if his identity were disclosed or if there were otherwise "good cause for not allowing confrontation;" United States v. Terrones, supra, 790 where the District Court ruled that Procedural Due Process did not prevent in camera submission of evidence at a bail hearing unless under "rare and unusual circumstances" there was "a demonstrated risk of bodily harm or death to the source(s)" if disclosure was made. Timely written and oral objections were made by the Petitioner to the receipt of the declarations without an opportunity to examine the declarants. Detailed written and oral proffers were made

to the court concerning the inaccuracy of their allegations. Compare, United States v. Matir, supra, at 1147 where the defendant did not challenge the government's proffer "in any way" and United States v. Perez-Pachari, 691 F.Supp. 241, 243 (D.Hawaii 1987) where the defendant "made no proffer that the government's proffer...was inaccurate." Finally, in seeking to detain the Petitioner, the government relied upon the information which he moved to challenge by cross-examination. Compare, United States v. Perez-Pachari, supra, at 243, where the government did not rely upon the information provided by the non-disclosed witness in support of detention and "thus cross-examination (was) irrelevant..."

VI

CONCLUSION

A Defendant's constitutional and statutory rights to cross-examine witnesses who appear at detention hearings have never been uniformly interpreted by the Circuits. While guilt or innocence is not decided during bail proceedings, the liberty interest at stake is frequently substantial. For example, because of the complexity of this case, the Petitioner will not go to trial until March of 1992. This trial date entails a period of pre-trial incarceration of fourteen (14) months upon information which the Petitioner contended was inaccurate and misleading.

Review is necessary to clarify the protection of the Sixth Amendment Confrontation Clause in cases where a defendant makes a credible claim that he is being detained

without bail upon information that is incorrect or substantially misleading. The defense contends that in a case such as this, where the prosecution did not allege good cause for refusing to produce its declarants, the Due Process and Confrontation Clauses entitled the Petitioner to cross-examine those witnesses on the specific areas of misinformation which he identified to the court before their information was relied upon to deny him bail.

Dated: September 5, 1991

Respectfully submitted,

/ MICHAEL D. ABZUG
Attorney for Petitioner
JORGE ROCA-SUAREZ

EXHIBIT A

___FILED ___LODGED
___RECEIVED ___ENTERED

JUN 19 1991

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JORGE ROCA-SUAREZ (1), Defendant.	Criminal No. 90-1053-G MEMORANDUM DECISION AND ORDER

Defendant's motion for release on bail came on for hearing on July 10, 1991, at 10:30 a.m., before the Honorable Earl B. Gilliam. The defendant was present with counsel, Michael D. Abzug. Amalia L. Meza, Assistant United States Attorney appeared on behalf of the government.

Having considered defendant's memorandum for bail, the government's motion in opposition, the attached exhibits, and oral arguments of both parties in support thereof, the court hereby denies defendant's motion for bail.

FACTS

On November 1, 1990, defendant Roca-Suarez was indicted in the Southern District of California for his alleged role as a principal organizer and leader in a continuing drug enterprise.[1] On November 20, 1990, defendant was also indicted in the Central District of California for tax evasion.[2]

---

[1] See Criminal Indictment of the Grand Jury, Criminal No. 90-1053-G (filed November 1, 1990).

[2] Defendant was indicted for conspiracy to commit tax fraud, Title 18, U.S.C. §371; conspiracy to export currency, 18 U.S.C. §371; and tax evasion, 26 U.S.C. §7201.

Defendant's close family members and associates, in addition to the above charges, were also indicted for false statements on

(cont. p. A-3)

The allegations against defendant stem in part from the ongoing criminal activities involved in an earlier case, United States of America v. Efren Mendez-Duenas, CR 87-1389-E, which involved a Bolivian cocaine cartel, known as "La Corporacion," with major drug trafficking within the United States and Bolivia.

MOTION FOR BAIL

As a basis for his motion for bail, defendant relies on Title 18, United States Code, Section 3142(g) which provides in pertinent part:

> [A] judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning --

---

2 (cont.)

tax returns, Title 26, 26 U.S.C. §5816(a)(1)(A) and 5322(b); and false statements to a bank, 18 U.S.C. § 1014.

(1) the nature and circumstances of the offense charged, [to] include whether the offense is a crime of violence or involves a narcotic drug;

(2) the weight of the evidence;

(d) the history and characteristics of the person including --

(A) the person's character. . . community ties . . . past conduct. . . history relating to drug abuse. . . criminal history and;

(4) the nature and seriousness of the danger to any person or the community . . ..

The Bail Reform Act of 1984 reads in pertinent part "[t]hat a judicial offense shall hold a detention hearing in a case that involves (1) an offense for which the maximum sentence is life imprisonment or death; or (2) an offense for which a maximum term of imprisonment of ten (10) years or more is prescribed in the Controlled Substances Act." Title 18, United States Code, Section 3142(f).

Section 3142(e) further provides "that a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which the maximum term of imprisonment of ten (10) years or more is prescribed in the Controlled Substance Act." [Emphasis added.]

At the hearing the government presented evidence which supported the allegation that defendant Roca-Suarez was the principal leader and organizer of a group of individuals heavily involved in narcotics trafficking and money laundering.

Based on a four (4) count indictment it was also alleged that defendant was the nephew of a reputed cocaine godfather of Bolivia and that as part of the family

organization he acted as a principal leader and organizer in a continuing conspiracy to transport multi-ton quantities of refined cocaine throughout the United States and Bolivia.

The government's evidence, based on tape recorded conversations, physical surveillance evidence, various photographs, seized documents and agent testimony also alleged that by way of delegation defendant had been involved in murder, kidnappings, extortion, bribes and tax evasion in order to carry out his alleged criminal objectives. The government also presented evidence that defendant had attempted to avoid arrest on previous occasions by using a documented alias. See United States v. Jackson, 823 F.2d 4, 7 (2nd Cir. 1987). In addition, it was alleged that defendant has a reputation in the Bolivian community as a suspected

narcotics trafficker.[3]

Pursuant to Section 3142(e), this court finds that there exists sufficient probable cause to support the government's indictment against defendant. Indeed, "[t]he quantum and nature of proof constitutionally required to support an inference of knowledge in narcotics offenses is not always an easy question." Turner v. United States, 396 U.S. 398 (1970).

However, in the instant case defendant Roca-Suarez, has been charged with being the leader of a major drug trafficking organization. If convicted, defendant faces a mandatory life sentence for being a principal leader [in] a continueing criminal enterprise under 21 U.S.C. §848(b).

---

[3]The court may consider hearsay and otherwise inadmissible evidence at a detention hearing. United States v. Fortna, 769 F.2d 243, 251 (5th Cir. 1985).

Moreover, under the additional counts alleged, defendant faces at a minimum -- in excess of thirty (30) years in prison pursuant to the sentencing guidelines. Despite defendant's offer to post a $550,000 (no cash) surety bond and his willingness to be monitored by electronic surveillance equipment, a rebuttable presumption exists that these measures will not reasonably assure the appearance of the defendant or the safety of the community. 18 U.S.C. § 3142 et seq., 3142(2).[4]

CONCLUSION

In accordance with Title 18 U.S.C. §3142, subsections (e) and (f) this court finds that defendant has failed to present adequate conditions which would assure this court of his future appearance. Given the

---

[4] See, United States v. Jackson, 823 F.2d 4, 7 (2nd Cir. 1987); United States v. Lepere, 599 F.Supp. 1322, 1324 (D. Mass., 1984).

severity of defendant's sentence, the nature of defendant's alleged narcotics operation, and criminal ties of defendant and his family both within the United States and Bolivia, defendant has failed to rebut the presumption of "his significant risk of flight." Therefore, the court hereby denies defendant's motion for bail.

IT IS SO ORDERED.

Dated: July (19), 1991.

(s)
Earl B. Gilliam, Judge
United States District Court

For Earl B. Gilliam

EXHIBIT B

RECEIVED AUG 28 1991

FILED
AUG 19 1991
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	No. 91-50412
Plaintiff-Appellee,	DC # CR-1053-EBG
vs.	Southern California
JORGE ROCA-SUAREZ,	ORDER
Defendant-Appellant.	

Before: FLETCHER, LEAVY and T.G. NELSON, Circuit Judges

Appellant's motion for revocation of the district court's June 22, 1991 pretrial detention is denied. The June 22, 1991 order is affirmed.

8/14/91SP

EXHIBIT C

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, PLAINTIFF, VS. JORGE ROCA-SUAREZ, A/K/A RECHO DE PAJA, A/K/A TECHO, AND BEATRIZ ROCA, DEFENDANTS.	NO. 90-1053-G-CRIMINAL SAN DIEGO, CA:OFPRMOA JULY 10, 1991 10:30 O'CLOCK A.M.

TRANSCRIPT OF PROCEEDINGS

BEFORE HONORABLE EARL B. GILLIAM, JUDGE

TRANSCRIPT ORDERED BY:
SYLVAN PHILIP DAROCA, III, ESQ.

COUNSEL APPEARING:

FOR PLAINTIFF:

WILLIAM BRANIFF, ESQ.
UNITED STATES ATTORNEY
BY: AMALIA L. MEZA, ESQ.
ASSISTANT U.S. ATTORNEY
940 FRONT STREET
SAN DIEGO, CALIFORNIA 92189
TELEPHONE: (619)557-6092

FOR DEFENDANT
JORGE ROCA: MICHAEL ABZUG, ESQ.

FOR DEFENDANT
BEATRIZ ROCA: MANUEL ARAUJO, ESQ.

REPORTED BY: T. PAT STROBEL
OFFICIAL COURT REPORTE
CSR NO. 621
-AND-
LEE ANN PENCE
OFFICIAL COURT REPORTE
PRO TEM

SAN DIEGO, CALIFORNIA - WEDNESDAY, JULY 10, 1991 - 10:30 A.M.

* * *

THE CLERK: NO. 1 ON CALENDAR, CRIMINAL CASE NO. 90-1053-G, UNITED STATES OF AMERICA VS. JORGE ROCO- SAUREZ AND BEATRIZ ROCA FOR CASE STATUS AND HEARING DEFENDANT NO. 1's MOTION FOR BAIL.

MS. MEZA: GOOD MORNING, YOUR HONOR. AMALIA MEZA FOR THE UNITED STATES.

MR. ABZUG: GOOD MORNING, YOUR HONOR. MICHAEL ABZUG APPEARING ON BEHALF OF MR. ROCA.

I'M ALSO SPECIALLY APPEARING ON BEHALF OF MANUEL ARAUJO WHO IS PRESENT IN COURT WHO REPRESENTS BEATRIZ ROCA.

MR. ROCA IS NOW PRESENT BEFORE THE COURT IN CUSTODY.

THE COURT: MR. ABZUG, WE'LL HEAR FROM YOU FIRST.

MR. ABZUG: THANK YOU, YOUR HONOR. LET ME BEGIN BY TAKING CARE OF A FEW INTRO_ DUCTORY MATTERS, IF I MIGHT. PRESENT IN TH COURTROOM TODAY, YOUR HONOR, IS MR. GREGG BUSBY, WHO IS A COURT OFFICER FROM E.S.S. THIS IS THE ELECTRONICS SURVEILLANCE SERVIC THAT WE PROPOSE AS A PARTIAL CONDITION OF T BOND THAT WE ARE SUBMITTED TO THE COURT. HE'S HERE IN THE EVENT THE COURT HAS ANY QUESTIONS ABOUT E.S.S.

ALSO PRESENT ARE THE PROPOSED SURETIE IN THE EVENT THE COURT OF MISS MEZA WISHES TO ASK THE SURETIES ANY QUESTIONS SHOULD THAT BECOME RELEVANT.

THE THREE OTHER THINGS I WANTED TO MENTION BEFORE I BEGIN MY ARGUMENT, YOUR HONOR, IS THIS. I HEARD INFORMALLY THAT TH COURT HAD ONLY LODGED THE RESPONSE THAT I FILED TO THE PEOPLE'S OPPOSITION RATHER THA FILING IT, BECAUSE THERE WAS SOME QUESTION AS TO THE TIME LIMITS OF THE RESPONSE. I

WOULD ASK THE COURT TO FILE IT SO THAT IT IS OFFICIALLY PART OF THE RECORD.

THE COURT: WE HAVE IT LODGED ON JULY THE 9th, 1991.

ONE OF MY LAW CLERKS INFORM ME THAT I IT WAS ON HER DESK JUST AFTER LUNCH YESTERDAY, SO THE FIRST TIME IT WAS BEFORE THE COURT.

MR. ABZUG: I UNDERSTAND. IF I COULD JUST EXPLAIN TO THE COURT THE SEQUENCE OF EVENTS ON THE BAIL MOTION. THE OPENING BAIL MOTION WAS FILED BY MR. ROCA BACK IN JUNE.

AT THE TIME I FILED IT I HAD A DISCUSSION WITH THE PROSECUTOR ASSIGNED TO TRY THE CASE, MR. STEVE NELSON, AS TO WHEN THE HEARING DATE WOULD BE, AND WE PUSHED IT BACK, WITH THE COURT'S CONSENT, FAR ENOUGH SO THAT ALL PARTIES WOULD HAVE AN OPPORTUNITY TO FILE ANY OPPOSITION AND ALSO A REPLY.

IT WAS ANTICIPATED BY ME AND MR. NELSON THAT THE GOVERNMENT WOULD FILE ITS OPPOSITION

ON JULY 3RD, AND THAT WE WOULD BE ABLE TO GET OUR REPLY IN ON JULY 5TH, WHICH WAS FRIDAY.

FOR NO FAULT OF THE GOVERNMENT, I GUESS, MR. NELSON SUBSEQUENTLY WAS ADVISED THAT HE HAD TO MAKE A COURT APPEARANCE IN THE NINGH CIRCUIT ON TODAY'S DATE. THE RESPONSIBILITY FOR TODAY'S APPEARANCE WAS SHIFTED OVER TO MISS MEZA, AND INSTEAD OF GETTING THE GOVERNMENT'S OPPOSITION ON JULY 3RD I RECEIVED IT FRIDAY, JULY 5th. I WORK THE ENTIRE WEEKEND. WE TYPED IT UP, AND GO IT READY AS QUICKLY AS WE POSSIBLY COULD. SO I REALLY COULD NOT HAVE HUMANLY FILED IT ANY FASTER THAN I DID. I'M SORRY THAT THE COURT DIDN'T GET IT FASTER. IT WAS MY ANTICIPATION I WOULD BE ABLE TO GET IT FAST BUT I THINK THAT'S THE GOVERNMENT'S OPPOSI-TION WHEN I THOUGHT I WOULD GET IT. SO I WOULD LIKE TO FILE IT, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH. WE'LL FILE IT.

MR. ABZUG: THE OTHER TWO MATTERS I WANTED TO DISCUSS WERE -- THE COURT HAS A COPY OF THE PRE-TRIAL SERVICES REPORT. IT IS GENERALLY ACCURATE, WITH ONE EXCEPTION WHICH I WANTED TO BRING TO YOUR ATTENTION.

IN PARAGRAPH 4, WHERE IT INDICATES PRIOR RECORD, THERE'S AN INDICATION HERE THAT THERE'S AN ACTIVE WARRANT FOR MY CLIENT'S ARREST OUT OF THE EAST LOS ANGELES MUNICIPAL COURT.

MR. ROCA'S LAWYER, SYLVAN DAROCA, WHO IS PRESENT IN COURT TODAY, MADE AN APPEARANCE IN EAST LOS ANGELES MUNICIPAL COURT IN MAY OF THIS YEAR. THAT CASE HAS BEEN DISMISSED, AND THE WARRANT HAS BEEN WITHDRAWN. SO THERE IS NO ACTIVE WARRANT OUTSTANDING AGAINST MY CLIENT. HE HAS NO RECORD, AS REPRESENTED TO THE COURT IN MY MOVING PAPERS.

THE COURT: MISS MEZA, DO YOU HAVE ANY REASON TO OPPOSE THAT?

MS. MEZA: NO, YOUR HONOR.

MR. ABZUG: THE FINAL THING I WANTED TO DISCUSS WAS THAT THE GOVERNMENT, AS YOU KNOW FROM ITS RESPONSE, TAKES THE POSITION THAT WE ARE NOT ENTITLED TO CROSS-EXAMINE ANY OF THE DECLARANTS WHO FILED DECLARATIO IN CONNECTION WITH THEIR OPPOSITION.

MY POSITION, YOUR HONOR, IS THAT I'M ENTITLED TO CROSS-EXAMINE THE DECLARANT TO THE GOVERNMENT'S MOTIONS, AND I SPECIFICAL REQUEST THAT OPPORTUNITY. I THINK THE GOV MENT HAS MISCITED THE APPLICABLE LAW IN TH NINTH CIRCUIT, WHICH IS UNITED STATES VS. WINDSOR, WHICH IS CITED BOTH IN THEIR MOVI PAPERS AND ALSO IN MY RESPONSE. THAT CASE HOLDS THAT A MOVING PARTY TO A BAIL MOTION IS NOT ENTITLED TO CROSS-EXAMINE DECLARANT UNLESS HE MAKES A PROFFER THAT DECLARANT'S INFORMATION IS INCORRECT.

I AM PREPARED TO MAKE SUCH A PROFFER, YOUR HONOR. I THINK WE HAVE MADE AN ADEQUATE PROFFER, BASED ON OUR MOVING PAPERS, AND UNLESS I'M ENTITLED, OR ALLOWED TO CROSS-EXAMINE THE DECLARANTS, I WOULD MOVE TO STRIKE THE DECLARATIONS OF SPECIAL AGENT INTINARELLI, SPECIAL AGENT GREENBERG AND SPECIAL AGENT SKAGGS. I ANTICIPATED THEY WOULD BE HERE AND I WOULD BE ABLE TO CROSS-EXAMINE THEM, BECAUSE THERE'S A SUBSTANTIAL AMOUNT OF MATERIAL IN THEIR DECLARATIONS THAT ARE INCORRECT AND MISLEADING.

THE COURT: HAVE YOU HAD A CHANCE TO GO OVER IT AND COME TO SOME CONCLUSION AS TO WHETHER OR NOT THERE HAS BEEN AN OFFER OF PROOF MADE?

MS. MEZA: YOUR HONOR, HE HAS CHALLENGED VERY SPECIFIC ITEMS IN THOSE DECLARATIONS, AND I WOULD LIKE TO HEAR HIS PROFFER TO THE COURT. OBVIOUSLY, IF HE, AGAIN, CHALLENGES SPECIFIC ITEMS, AND THE GOVERNMENT

WISHES TO PRESENT TESTIMONY, WE HAVE AGENT SKAGGS HERE, WHO CAN TESTIFY AS TO HEARSAY BUT WE WILL MAKE THAT CALL AFTER HE MAKES HIS PROFFER AND MAKES HIS ARGUMENT.

THE COURT: I TAKE IT YOUR POSITION OF THE LAW IS AS HE STATES IT, THAT HE'S ENTITLED TO CROSS-EXAMINE THEM IF HE MAKES AN OFFER OF PROOF THAT SOMETHING IS INCORR

MS. MEZA: IF HE MAKES AN OFFER OF PROOF THAT CERTAIN PROFFERS ARE INCORRECT.

MR. ABZUG: MAY I MAKE SUCH AN OFFER YOUR HONOR?

THE COURT: YES, SIR.

MR. ABZUG: ALL RIGHT. LET ME BEGIN BY DISCUSSING THE DECLARATION OF SPECIAL AGENT INTINARELLI, SPECIFICALLY WITH RESPE TO INFORMATION CONTAINED IN PARAGRAPHS 2 THROUGH 4.

SPECIAL AGENT INTINARELLI DISCUSSES THE INTERCEPTION OF VARIOUS APPLIANCES, ELECTRIC APPLIANCES BY THE UNITED STATES

STATES TO BOLIVIA, AND SUBSTANTIAL AMOUNTS OF CASH WERE FOUND IN THOSE APPLIANCES.

THE INFERENCE, AT LEAST THE INFERENCE THAT I THINK THE AGENT WANTS THE COURT TO DRAW IS THAT THOSE SHIPMENTS ARE SOMEHOW LINKED TO MY CLIENT.

THE PROFFER THAT I AM PREPARED TO MAKE -- AND THIS IS BASED UPON MY OWN INVESTIGATION AS WELL AS MY REVIEW OF THE DISCOVERY -- IS THAT THE SHIPPING DOCUMENTS FOR EACH OF THOSE APPLIANCES IDENTIFIED IN PARAGRAPHS 2 THROUGH 4 DO NOT IDENTIFY MR. ROCA OR ANY MEMBER OF HIS FAMILY AS CONNECTED TO THE SHIPPING OF THESE DOCUMENTS.

THE SHIPPING DOCUMENTS DO NOT CONNECT MR. ROCA OR ANY MEMBER OF HIS FAMILY AS THE ADDRESS OF ANY OF THESE APPLIANCES.

AND NO. 3, THE INVOICES WHICH THE AGENTS REVIEWED AT HOWARD'S APPLIANCE AND ELECTRONICS IN SAN GABRIEL WHERE THESE ITEMS WERE PURCHASED DO NOT REFLECT THAT MR. ROCA

OR ANY MEMBER OF HIS IMMEDIATE FAMILY PURCHASED ANY OF THE APPLIANCES.

THE ONLY QUOTE-UNQUOTE LINK TO MR. ROCA, IF YOU CAN CALL IT THAT, TO THESE APPLIANCES IS THAT MR. ROCA AND MEMBERS OF HIS FAMILY SHOPPED AT HOWARD'S APPLIANCE AND ELECTRONICS WHERE THESE APPLIANCES WERE PURCHASED, ALONG WITH ABOUT 10 to 20,000 OTHER PEOPLE.

SO THAT'S THE REPRESENTATION I MAKE WITH RESPECT TO THOSE PARAGRAPHS WITH RESPECT TO MR. INTINARELLI'S DECLARATION.

WITH REGARD TO PARAGRAPH 5, SPECIAL AGENT INTINARELLI DISCUSSES THE SEIZURE OF $879,000 FROM A MAN BY THE NAME OF EMILIO DIAZ ON APRIL THE 4TH, 1988. THAT'S OVER THREE YEARS AGO. AND THEN HE SAYS IN HIS DECLARATION THAT HE HAS DOCUMENTED DIRECT TIES TO THE ROCAS BETWEEN EMILIO DIAZ TO TH ROCAS. I DON'T KNOW WHAT HE'S TALKING ABOU THAT WOULD DOCUMENT ANY DIRECT TIES.

THE FACTS OF THE MATTER ARE THAT AT ONE POINT IN TIME EMILIO DIAZ WORKED FOR THE ROCAS, I BELIEVE, AS A HANDYMAN, BUT THERE'S UTTERLY NO CONNECTION OTHER THAN THAT TO ANY MEMBER OF THE ROCAS' FAMILY WITH THE SEIZURE OF $879,000 THREE YEARS AGO. MR. ROCA WASN'T QUESTIONED ABOUT IT. HE WASN'T CHARGED. IT HAS NOTHING TO DO WITH IT.

WITH RESPECT TO PARAGRAPH 8, SPECIAL AGENT INTINARELLI INDICATES THAT HE RECEIVED INFORMATION FROM ANOTHER SPECIAL AGENT IN THE CUSTOMS SERVICE BY THE NAME OF KIRK THAT MR. ROCA WAS "THE INTENDED RECIPIENT OF ROUGHLY $1.1 MILLION FROM A MAN BY THE NAME OF ROBERTO ORTIZ."

NOW, IN THE PARAGRAPH IT GOES ON TO SAY THAT MR. ORTIZ WAS SEIZED AND SEARCHED FOUR YEARS AGO IN MIAMI. AND IT ALSO GOES ON TO SAY THAT MR. ORTIZ, AFTER HE WAS SEIVED, GAVE A ROOM NUMBER AND MY CLIENT'S NAME. AND THAT MY CLIENT WAS SUBSEQUENTLY

FOUND IN THE ROOM WITH $31,000. WHAT THE DECLARATION DOESN'T SAY IS THE FOLLOWING:

FIRST OF ALL, MR. ROCA, IN CONNECTION WITH THIS INCIDENT, TESTIFIED BEFORE THE GRAND JURY IN THE SOUTHERN DISTRICT OF FLORIDA. HE WAS NEVER CHARGED WITH ANY-THING IN CONNECTION WITH EITHER HIS POSSES-SION OF THE $31,000 THAT HE HAD, OR THE $1.1 MILLION THAT WAS SEIZED FROM MR. ORTI THAT THE $31,000 THAT WAS FOUND IN MR. ROC CUSTODY, IN FACT, WAS RETURNED TO HIM BY T UNITED STATES GOVERNMENT SERVICE, AND THE GOVERNMENT HAS NO INFORMATION WHATSOEVER FROM ANY WITNESS OR ANY DOCUMENTATION THAT MR. ROCA WAS THE "INTENDED RECIPIENT OF TH $1.1 MILLION THAT WAS SEIZED FROM ROBERTO ORTIZ." THAT'S THEIR SUPPOSITION, BUT THE NO WITNESSES OR DOCUMENTATION TO SUPPORT THAT SUPPOSITION.

WITH RESPECT TO PARAGRAPH 7 -- THERE A STATEMENT IN SPECIAL AGENT INTINARELLI'S

DECLARATION THAT AT THE TIME OF MR. ROCA'S ARREST IN 1990 HE HAD PROPERTY VALUED AT 10 to $12 MILLION. THIS STATEMENT IS MISLEADING. I THINK IF HE WAS CROSS-EXAMINED, HE WOULD ADMIT THAT THAT FIGURE IS THE FAIR MARKET VALUE OF THE PROPERTY, BUT THAT ALL THESE PIECES OF PROPERTY -- AND THIS IS IN MY DECLARATION -- WERE INDEPENDENTLY EVALUATED BY THE UNITED STATES MARSHAL'S SERVICE, AND THE EQUITY IN THE PROPERTY, THAT IS, THE VALUE OF MR. ROCA IS LESS THAN HALF THAT FIGURE.

AND THIS PATTERN OF INFLATION ALSO APPLIES TO THE VALUE OF THE AUTOMOBILES THAT IS REFERRED TO IN PARAGRAPH 7. SPECIAL AGENT INTINARELLI SAYS THAT MR. ROCA HAD AN $80,000 MERCEDES AND HIS SON HAD, OR ANOTHER MEMBER OF THE FAMILY HAD A $32,000 SPORTS CAR. WE HAVE DOCUMENTATION TODAY IN COURT, YOUR HONOR, TO SHOW THAT VALUE OF AUTOMOBILE, THE $80,000 MERCEDES THAT SPECIAL AGENT

AGENT INTINARELLI HAS PARADED BEFORE THE COURT IN FACT WAS PURCHASED ON A $72,000 LOAN, THE THE SAME THING IS TRUE OF THE SPORTS CAR. THERE'S VIRTUALLY NO EQUITY IN EITHER OF THESE AUTOMOBILES.

THEN, FINALLY, THE PROFFER THAT I MAD WITH RESPECT TO AGENT INTINARELLI'S DECLARA TION -- HE MAKES A GENERAL CLAIM WITHOUT ANY SPECIFICS THAT ALL OF THE ASSETS THAT H HAS IDENTIFIED TO THE COURT IN PARAGRAPH 7 HE THINKS WERE BOUGHT WITH DRUG PROCEEDS. THERE IS UTTERLY NO PROOF WHATSOEVER THAT THAT IS TRUE. AND I THINK IF SPECIAL AGENT INTINARELLI WAS CROSS-EXAMINED, HE WOULD ADMIT THAT THE GOVERNMENT HAS NOT BEEN ABLE TO TRADE ANY OF THE ASSETS OF MR. ROCA TO ANY PARTICULAR DRUG TRANSACTION.

AND I WOULD FURTHER OFFER TO THE COUR THAT IF HE WERE CROSS-EXAMINED, HE WOULD ALSO ADMIT -- ALTHOUGH NONE OF THIS WAS DI CLOSED BY THE GOVERNMENT TO THE COURT -- TH

IN 1985 MR. ROCA RECEIVED A SUBSTANTIAL GIFT FROM HIS MOTHER AMOUNTING TO $1.5 MILLION, THAT THIS GIFT WAS DECLARED TO THE INTERNAL REVENUE SERVICE, AND THAT MR. ROCA PAID OVER $300,000 IN GIFT TAX ON THIS MONEY. AND THAT'S THE SOURCE, AS WELL.

SO THAT HAS TO DO WITH SPECIAL AGENT INTINARELLI'S DECLARATION.

WITH RESPECT TO SPECIAL AGENT GREENBERG"S DECLARATION, IN PARAGRAPH 3 HE SAYS THAT PRIOR TO 1985 THE ROCAS OWNED VERY LITTLE.

IF HE WERE CROSS-EXAMINED, HE WOULD ADMIT, I BELIEVE, THAT HIS EXAMINATION OF THE ROCAS' WEALTH WAS RESTRICTED, I BELIEVE, TO THE STATE OF CALIFORNIA, BUT IN ANY EVENT, DID NOT INCLUDE WEALTH THAT THE ROCAS OWNED OUTSIDE OF THE UNITED STATES, AND THIS WAS THE SOURCE OF THE $1.5 MILLION GIFT THAT MR. ROCA GOT IN 1985.

WITH RESPECT TO PARAGRAPH 4, SPECIAL AGENT GREENBERG INDICATES THAT CASH DEPOSITS IN ESCROW, WERE PLACED IN ESCROW BY THE ROCA DURING 1985 TO 1986 WERE IN THE AMOUNT OF ROUGHLY $2.3 MILLION. THAT'S JUST A SIMPLE ADDITION THERE. ALTHOUGH PRESUMABLY HE'S AN ACCOUNTANT, HE MADE AN ADDITION OF $500,000. THE DEPOSIT ACTUALLY WAS 30 PERCENT LESS THAN HE ESTIMATED.

FURTHERMORE, I WOULD OFFER TO THE COURT THAT THOSE DEPOSITS WERE NOT MADE IN ANY EFFORT TO HIDE THE ROCA WEALTH. THEY WERE ALL MADE TO PROPERTIES THAT WERE LISTED IN THE ROCA FAMILY NAME. IN OTHER WORDS, THIS IS NOT A SITUATION WHERE THE ROCAS PURCHASED THE PROPERTY IN CASH UNDER NOMINEE NAMES OTHER THAN THEIR OWN.

THEN, FINALLY, WITH RESPECT TO SPECIAL AGENT GREENBERG'S DECLARATION WITH REGARDS TO PARAGRAPH 4, PAGE 5. HE INDICATES THAT MR. ROCA FILED RETURNS FROM 1983 TO 1985.

KIND OF A NEGATIVE PREGNANT. I DON'T KNOW. THE SUGGESTION APPEARS TO BE, PERHAPS, THAT HE DIDN'T FILE A RETURN IN 1989.

AND THE REASON I THINK IT'S SIGNIFICANT IS THE AMOUNT OF GROSS INCOME THAT HE DECLARED IN 1989 IS OVER A QUARTER OF A MILLION DOLLARS, AND DOUBLE WHAT HE DECLARED IN THE YEARS FROM 1983 to 1988. AND I BELIEVE THE REASON THEY DIDN'T SHOW IT TO THE COURT IS BECAUSE IT DOESN'T FIT IN WITH THE PICTURE THEY'RE TRYING TO PAINT TO THE COURT THAT MR. ROCA DID NOT HAVE A GREAT DEAL OF WEALTH DURING THAT PERIOD.

THE LAST DECLARATION THAT I WANT TO DISCUSS IS BY SPECIAL AGENT SKAGGS, WHO IS PRESENT IN COURT TODAY. IN PARAGRAPH 2-A SPECIAL AGENT SKAGGS CLAIMS THAT A VALID ARREST WARRANT WAS ISSUED FROM THE REPUBLIC OF COLOMBIA FOR MY CLIENT'S ARREST IN CONNECTION WITH THE SO-CALLED LA RAMADA COCAINE PROSECUTION ON JANUARY 16TH, 1989. THAT IS

CORRECT, BUT WHAT IS INCORRECT, AND WHAT I WOULD PROFFER TO THE COURT IS THAT IF SPECI AGENT SKAGGS WERE CROSS-EXAMINED, HE WOULD ADMIT THAT WHEN THE MATTER CAME TO TRIAL TH TWO WITNESSES ON WHOSE TESTIMONY I THINK TH PROSECUTION WAS BASED RETRACTED THEIR TESTI MONY AGAINST MR. ROCA, AND THAT ON APRIL 15TH, 1989, FOUR MONTHS AFTER THE WARRANT WAS ISSUED, THE CASE WAS DISMISSED AND THE WARRANT WAS WITHDRAWN. AND THAT FACT IS DOCUMENTED IN THE PAPERS WHICH WE HAVE HAD AS EXHIBIT B TO OUR RESPONSE.

I THINK SPECIAL AGENT SKAGGS WOULD FURTHER ADMIT THAT THE AUTHENTICATION THAT HE ATTACHED TO HIS PAPERS BY THE SECRETARY TO THE SUPREME COURT, DATED MARCH 12TH, 1990 IS NOTHING MORE THAN A CERTIFICATION BY A CLERK THAT THE COPY OF THE ARREST WAR RANT THAT THE GOVERNMENT SUPPLIED YOU, DATI JANUARY 16TH, 1990 IS A TRUE AND CORRECT COPY, JUST LIKE IF YOU WENT DOWN TO THE

CLERK'S OFFICE HERE AND GOT A CERTIFIED COPY OF A COURT DOCUMENT. IT'S NOT PROOF THAT THE ARREST WARRANT IS STILL OUTSTANDING AS OF MARCH, 1990.

WITH REGARD TO HIS INFORMATION IN PARAGRAPH 2-C -- HE MAKES A CLAIM THAT A NEWSPAPER ARTICLE IS PROOF THAT MR. ROCA H HAS A GREAT -- WHAT HE CHARACTERIZES AS A MASS OF WEALTH IN BOLIVIA.

PARENTHETICAL ASIDE, ALTHOUGH IT'S NOT PART OF THE PROFFER, I QUESTION WHY THE ARTICLE WAS UNTRANSLATED AND SUBMITTED TO THE COURT. BUT BE THAT AS IT MAY, I WOULD PROFFER TO THE COURT THAT THE DRUG ENFORCEMENT ADMINISTRATION HAS NO DOCUMENT THAT MR. ROCA HAS ANY MASSIVE REAL ESTATE HOLDINGS IN BOLIVIA, THAT IS, DOCUMENTATION CONSISTING OF CERTIFIED PROPERTY RECORDS. THEY HAVE NO DOCUMENTATION THAT'S ADMISSIBLE AND RELIABLE THAT HE OR HIS FAMILY HAS A TREMENDOUS AMOUNT OF WEALTH IN BANK ACCOUNTS.

THERE'S NO EVIDENCE THAT ANY MEMBE
OF MR. ROCA'S FAMILY WAS ARRESTED WITH T
MENDOUS AMOUNTS OF CASH. AND THAT, IN F
WHAT HIS PROFFER OF MR. ROCA'S GREAT WEA
IS BASED ON IS IN A NEWSPAPER ARTICLE, W
FOR ALL THE COURT KNOWS, COULD HAVE THE
LIABILITY OF SOMETHING OUT OF THE NATION
INQUIRE.

FINALLY, IN PARAGRAPH 2-D -- AND T
IS THE LAST PROFFER THAT I'LL MAKE, SPEC
AGENT SKAGGS MAKES THE CLAIM IN PARAGRAP
2-D THAT MR. ROCA USED FALSE IDENTIFICAT
TO CONCEAL HIS OWN IDENTIFICATION, OR HI
TRUE IDENTIFICATION. I THINK IF HE WERE
CROSS-EXAMINED HE WOULD ADMIT IS A MISLE
ING COMMENT TO THIS EXTENT.

I DON'T BELIEVE THE DRUG ENFORCEME
ADMINISTRATION, OR ANY AGENCY OF THE GOV
MENT HAS ANY PROOF WHATSOEVER THAT MR. R
EVER USED FALSE IDENTIFICATION. THE IDE
FICATION THAT IS ATTACHED TO THE GOVERNM

MOVING PAPERS WAS NOT ONLY NEVER USED, IT EXPIRED, IF THE COURT LOOKS AT THE DATE ON THE IDENTIFICATION.

AND THAT SPECIAL AGENT SKAGGS WOULD FURTHER ADMIT, I BELIEVE, THAT WHEN THE INDICTMENT WAS UNSEALED IN THIS CASE, THE GOVERNMENT HAD UTTERLY NO PROBLEM IN FINDING MR. ROCA, WHO WAS LIVING OPENLY AND NOTORIOUSLY IN LOS ANGELES. IN FACT, HE WAS ARRESTED WITH HIS WIFE COMING BACK FROM THE KIDS' SCHOOL. SO THIS IS NOT A SITUATION WHERE THE DEFENDANT HAS EVER USED FALSE IDENTIFICATION.

I DON'T THINK THEY HAVE PROOF THAT HE HAS EVER TRAVELED UNDER A FALSE NAME, OR TH THAT HE HAS MADE ANY PURCHASES UNDER F FALSE NAME.

THERE IS PROOF THAT MR. ROCA MET WITH THE DRUG ENFORCEMENT ADMINISTRATION IN NOVEMBER, 1989, AND THAT THE DRUG ENFORCEMENT ADMINISTRATION BASICALLY KNEW WHERE HE

WAS AT ALL TIMES.

SO THAT IS MY PROFFER, YOUR HONOR, AND I'LL WAIT TO HEAR THE GOVERNMENT'S RESPONSE.

THE COURT: MISS MEZA?

MS. MEZA: YOUR HONOR, IF THE COURT WISHES WE CAN ARGUE WHETHER OR NOT BAIL IS APPROPRIATE IN THIS CASE, OR I CAN PROCEED AND CALL AGENT SKAGGS TO SIMPLY RESPOND TO --

THE COURT: I THINK WE SHOULD HAVE A AGENT SKAGGS RESPOND TO THESE THINGS, FIRS

MS. MEZA: OKAY. THE GOVERNMENT WOU CALL AGENT SKAGGS.

STEPHEN SKAGGS - PLAINTIFF'S WITNESS - SWO

THE CLERK: PLEASE BE SEATED. STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FO THE RECORD.

THE WITNESS: STEPHEN WITH A P-H, AN LAST NAME SKAGGS, S-K-A-G-G-S.

DIRECT EXAMINATION

BY MS. MEZA:

Q GOOD MORNING, SIR.

A GOOD MORNING.

Q TELL US, HOW ARE YOU EMPLOYED?

A I'M A SPECIAL AGENT WITH THE DRUG ENFORCEMENT ADMINISTRATION.

Q HOW LONG HAVE YOU BEEN SO EMPLOYED?

A SIX YEARS.

Q TELL US ABOUT YOUR PRIOR LAW ENFORCEMENT EXPERIENCE.

A I WAS A POLICE OFFICER FOR 12 YEARS PRIOR TO THAT IN COLUMBUS, OHIO.

Q SIR, ARE YOU ONE OF THE AGENTS WHO HAS BEEN ASSIGNED TO THE INVESTIGATION OF JORGE ROCA-SUAREZ?

A YES, I AM.

Q SIR, IN CONNECTION WITH THAT INVESTIGATION WERE YOU INVOLVED IN THE ARREST OF THE DEFENDANT?

A YES, I WAS.

Q DO YOU SEE HIM IN THE COURTROOM TOD

A YES, I DO.

Q WOULD YOU POINT HIM OUT, PLEASE, FO THE RECORD?

MR. ABZUG: WE WOULD CONCEDE THAT T GENTLEMAN SEATED NEXT TO ME IS MR. ROCA.

THE COURT: DO YOU ACCEPT THAT STIPULATION?

MS. MEZA: YES, YOUR HONOR.

THE COURT: IT WILL BE NOTED FOR TH RECORD.

BY MS. MEZA:

Q SIR, WHEN WAS HE ARRESTED?

A DECEMBER 13th, LAST YEAR.

Q WHERE WAS HE ARRESTED?

A ABOUT THREE BLOCKS FROM HIS HOME, SAN MARINO.

Q BEFORE HIS ARREST, SIR, TELL US WHA INFORMATION YOU HAD REGARDING HIS WHEREAB

A PRIOR TO HIS ARREST THE INFORMATION THAT I HAD, INTELLIGENCE THAT I HAD WAS THAT MR. ROCA WAS IN BOLIVIA.

Q DID YOU HAVE ANY INFORMATION REGARDING HIS PATTERN OF TRAVEL?

A SAID TRAVELED FREQUENTLY, AND THAT IT WAS DIFFICULT TO PINPOINT WHERE HE MIGHT BE AT ANY GIVEN POINT.

Q DID YOU KNOW THAT YOU WERE GOING TO BE ABLE TO FIND HIM ON THE DAY YOU WENT TO ARREST HIM?

A NO, I DID NOT.

Q NOW, SIR, CAN YOU TELL US WHAT THE CIRCUMSTANCES WERE OF HIS ARREST?

A WELL, AT THE TIME OF HIS ARREST MYSELF AND TWO OTHER AGENTS WERE THERE INSTALLING SOME EQUIPMENT IN AN ATTEMPT TO MONITOR THE AREA TO SEE, TO MONITOR THE COMINGS AND GOINGS TO SEE IF WE COULD LOCATE MR. ROCA.

Q AT THE TIME OF HIS ARREST WERE ANY DOCUMENTS SEIZED?

A YES, THEY WERE.

Q ANY DOCUMENTS REFLECTING THAT HE HAD USED ANOTHER IDETITY?

A YES, THERE WAS A BOLIVIAN CEDULA, WHICH IS A NATIONAL IDENTIFICATION CARD, UNDER THE NAME OF RAFAEL RODA WITH MR. ROC PICTURE ON IT.

Q ANYTHING ELSE?

A THERE WAS A DRIVER'S LICENSE ALSO IN THE NAME OF RAFAEL RODA, AND SOME VACCINA-TION RECORDS IN THE SAME NAME, AND THERE W ALSO -- IN ADDITION TO THAT AND AT THE SAM PLACE THERE WERE SEVERAL PASSPORT SIZE PHOTOS.

Q WHERE WERE THOSE DOCUMENTS FOUND, SI

A THEY WERE FOUND IN THE UPSTAIRS BED-ROOM IN A GRAY TRAVELING BAG.

Q SIR, I WOULD LIKE TO HAND YOU AT THI TIME DOCUMENTS THAT WERE ATTACHED TO A DECLARATION.

THE COURT: HAVE YOU SEEN THOSE, COU

///

BY MS. MEZA:

Q THAT WERE ATTACHED TO YOUR DECLARATION AS ATTACHMENT 3.

AND I WOULD ASK TO HAVE THESE MARKED AS GOVERNMENT'S EXHIBIT 1.

THE CLERK: HAVE THEY BEEN FILED, BEEN MADE A PART OF THE FILE?

MS. MEZA: THEY HAVE BEEN FILED, AN ATTACHMENT TO THE GOVERNMENT'S RESPONSE.

THE COURT: IF YOU ALREADY HAVE THEM AS PART OF THE DECLARATION, YOU DON'T NEED TO IDENTIFY THEM AGAIN FOR THE RECORD. THAT'S SUFFICIENT. THE DECLARATION HAS BEEN FILED, HASN'IT?

MS. MEZA: IT HAS BEEN FILED.

THE COURT: OKAY. THAT'S SUFFICIENT.

MS. MEZA: YOUR HONOR, THESE WERE ATTACHED TO AGENT SKAGGS' DECLARATION AS ATTACHMENT 3.

Q AND I'LL ASK THE AGENT IF HE CAN REC
NIZE WHAT THOSE DOCUMENTS ARE?

A THE SAME DOCUMENTS I JUST REFERRED T

THE COURT: MAY I ASK YOU -- SO THAT
I'M LOOKING AT THE RIGHT THING. I HAVE A
RESPONSE FILED JULY THE 10th. IS THAT WHE
IT'S ATTACHED?

MS. MEZA: YES. WELL, NO, THE RESPO
WAS FILED ON THE 8TH, YOUR HONOR. IT WAS
LODGED WITH THE COURT ON JULY 5TH.

THE GOVERNMENT'S RESPONSE?

THE COURT: YES, I'M TRYING TO MAKE
SURE I HAVE THE DOCUMENTS YOU SHOWED HIM.

MS. MEZA: AND THEY'RE ATTACHED TO H
DECLARATION.

THE COURT: IS THAT DECLARATION PART
OF THE FILE?

MS. MEZA: YES, HIS DECLARATION APPE
AS EXHIBIT A TO THE GOVERNMENT'S PAPERS.

THE COURT: I FIND ATTACHMENTS 2 AND
3, 4.

MS. MEZA: SHOULD BE ATTACHMENT 3.

THE COURT: OKAY

BY MS. MEZA:

Q AGENT SKAGGS, DO YOU RECOGNIZE WHAT THOSE DOCUMENTS ARE?

A YES, ONE WHICH I REFERRED TO AS THE BOLIVIAN CEDULA, OR NATIONAL IDENTIFICATION CARD ISSUED ON 5TH OF APRIL, 1985 IN SANTA CRUZ. GOOD THROUGH THE 5TH OF APRIL, 1991, ISSUED IN THE NAME OF RAFAEL RODA-SALAS.

Q IS THAT A COPY OF THE DOCUMENT THAT YOU FOUND IN HIS MASTER BEDROOM AT THE TIME OF HIS ARREST?

A YES, IT IS.

Q AND NEXT TO THOSE DOCUMENTS -- WELL, ON THE BACK SIDE OF THE DOCUMENT WAS A PICTURE: IS THAT CORRECT?

A THAT'S CORRECT.

Q AND IS THAT A PICTURE OF JORGE ROCA-SUAREZ?

A YES, IT IS.

Q AND IS A COPY OF THAT PICTURF ON ONE OF THOSE DOCUMENTS?

A YES, IT IS.

Q WHAT OTHER DOCUMENTS DID YOU FIND?

A ALSO, THERE'S A TEMPORARY LICENSE. IT'S ALSO IN THE NAME OF RAFAEL RODA-SALAS SAYS A SINGLE -- ISSUED 5-5-89. EXPIRES 5-11 of '89.

Q WAS THERE A PICTURE ATTACHED TO THAT DOCUMENT, AS WELL?

A NOT TO THIS ONE, NO.

Q ANY OTHER DOCUMENTS?

A THERE'S A VACCINATION CERTIFICATE FR -- IT'S A BOLIVIAN VACCINATION CERTIFICATE SIGNED BY RAFAEL RODA-SALAS.

Q DID YOU FIND ANY PICTURES WITH THAT VACCINATION CERTIFICATE?

A THERE WERE A NUMBER OF PICTURES, APPROXIMATELY SIX OR SEVEN PASSPORT SIZE PHOTOS.

Q . AND THOSE PHOTOS WERE OF WHOM?

A MR. ROCA.

Q BASED ON YOUR TRAINING AND EXPERIENCE, WHAT ARE THOSE VACCINATION CERTIFICATES USED FOR?

A GENERALLY BE USED FOR SOME SORT OF TRAVEL AS PROOF THAT YOU HAVE BEEN VACCINATED.

Q OKAY. THANK YOU.

AT THE TIME OF HIS ARREST DID YOU ALSO FIND A LARGE AMOUNT OF CASH?

A YES, THERE WAS A TOTAL OF $110,000 FOUND IN VARIOUS PLACES; $105,000 IN TWO DIFFERENT PLACES IN THE HOME AT THE TIME OF THE SEARCH WARRANT; AND OVER $4,000 IN THE TRUNK OF THE MERCEDES UPON MR. ROCA'S ARREST.

Q WAS THERE ANYTHING UNUSUAL ABOUT HOW THE CASH WAS FOUND?

A YES, IT WAS DUCT TAPED.

THE COURT: DUCT TAPE?

THE WITNESS: YES. IT WAS PACKAGED IN DUCT TAPE.

BY MS. MEZA:

Q SIR, DO YOU HAVE ANY INFORMATION RE

GARDING THE USE OF ANY OTHER ALIASES ON T

PART OF MR. ROCA-SUAREZ?

A YES, I DO.

Q WOULD YOU TELL THE COURT ABOUT THAT

A WELL, WAS AN ALIAS USED IN BOLIVIA

A NOMINEE NAME UNDER WHICH PROPERTY WAS

OWNED.

Q WHAT NAME HAD HE USED IN BOLIVIA TO

PURCHASE PROPERTY?

A I WOULD HAVE TO REFRESH MY MEMORY

WITH THE DOCUMENT.

Q OKAY. BUT IT IS NOT THE NAME OF RO

THAT APPEARED IN THE DOCUMENT?

A NO, IT'S NOT. IT'S ANOTHER NAME.

Q OKAY. WHAT INFORMATION HAVE YOU RE

CEIVED WITH REGARD TO THE USE OF THAT THI

NAME?

A THAT THERE'S A SUBSTANTIAL AMOUNT O

PROPERTY OWNED IN BOLIVIA UNDER THAT NAM

AND LAST REPORT THAT I'D RECEIVED FROM AGENTS IN BOLIVIA.

MR. ABZUG: EXCUSE ME, YOUR HONOR. I'M GOING TO OBJECT. I KNOW THAT THE COURT'S ALLOWED TO CONSIDER HEARSAY, BUT THIS HAS GONE FAR BEYOND THAT. I'M GOING TO OBJECT AND ASK THAT THIS TESTIMONY BE STRICKEN, UNLESS THIS AGENT AT LEAST IDENTIFIES THE SOURCE OF THIS INFORMATION. I MEAN, IT C COULD BE JUST NEWSPAPER ARTICLES --

THE COURT: WELL, I'LL LET YOU RAISE THAT ON CROSS-EXAMINATION. I THINK THAT WOULD BE THE PROPER WAY TO DO IT.

SO YOU MAY GO AHEAD AND TESTIFY, AND HE CAN RAISE IT ON CROSS.

THE WITNESS: MAY I PROCEED?

BY MS. MEZA:

Q YOU MAY PROCEED.

A THAT A SUBSTANTIAL AMOUNT OF PROPERTY WAS OWNED IN BOLIVIA UNDER THAT NAME, UNDER THAT NOMINEE NAME. AND THERE HAS BEEN

APPROXIMATELY $7 MILLION IN PROPERTIES IDENTIFIED IN BOLIVIA.

Q WHAT IS THE SOURCE OF YOUR INFORMATION, SIR?

A THE SOURCE OF MY INFORMATION IS A REPORT, D.E.A.-6 FROM THE SANTA CRUZ OFFICE IN BOLIVIA.

Q I WOULD LIKE TO ASK YOU SOME QUESTION ABOUT MR. ROCA'S FAMILY.

MANY OF HIS FAMILY MEMBERS HAVE BEEN INDICTED IN THIS CASE AS WELL; IS THAT CORRECT?

A THAT'S CORRECT.

Q SOME HAVE ALSO BEEN CHARGED IN LOS ANGELES?

A THAT'S CORRECT.

Q ABOUT HOW MANY OF HIS RELATIVES HAVE BEEN INDICTED IN SAN DIEGO AND LOS ANGELES

A WELL, THERE WERE SEVERAL SISTERS, HIS MOTHER, COUSINS. THERE WERE 19 OTHER PEOPLE INDICTED BESIDES MR. ROCA, AND A LARGE

PERCENTAGE OF THOSE WERE RELATIVES.

Q LET'S TALK ABOUT HIS MOTHER. WHAT HAS SHE BEEN INDICTED FOR?

A . VIOLATION OF TITLE 21, CONSPIRACY HERE IN THE SOUTHERN DISTRICT, AND ALSO IN THE CENTRAL DISTRICT OF CALIFORNIA, WAS ALSO INDICTED UP THERE.

Q THE CHARGES IN THE CENTRAL DISTRICT ARE TAX FRAUD?

A THAT'S RIGHT. TAX EVASION.

Q SIR, HAS SHE BEEN ARRESTED?

A YES, SHE HAS.

Q WHEN WAS SHE ARRESTED?

A RECENTLY ARRESTED IN BOLIVIA, ALONG -- BLANCA SUAREZ WAS ARRESTED ALONG WITH ASUNTA ROCA, WHICH IS A SISTER.

Q AND BLANCA SUAREZ IS HIS MOTHER?

A THAT'S CORRECT.

Q WHEN WAS SHE ARRESTED?

A I DON'T KNOW THE EXACT ARREST DATE. IT'S BEEN WITH THE LAST THREE WEEKS.

Q DO YOU HAVE ANY INFORMATION THAT SH
FLED THE UNITED STATES TO AVOID PROSECUTI
A YES, I DO.
Q TELL THE COURT ABOUT THE INFORMATIO
YOU HAVE ABOUT THAT.
A ON THE DATE OF MR. ROCA'S ARREST TH
WAS A SURVEILLANCE AT THE HOME OF BLANCA
SUAREZ LOCATED IN LOS ANGELES, AND AT THA
TIME AN AGENT SAW HER IN THE FRONT YARD O
THE HOME.

MR. ROCA WAS ARRESTED LATER THAT DA
AND AFTER THAT TIME BLANCA SUAREZ WAS NO
LONGER IN LOS ANGELES, AND WAS LATER
ARRESTED IN BOLIVIA.

SHE TALKED TO AGENTS THERE AFTER HE
ARREST, AND STATED THAT SHE HAD LIVED IN
LOS ANGELES FOR OVER 20 YEARS, AND GAVE A
LOS ANGELES ADDRESS.
Q DID SHE TELL THEM WHEN SHE LEFT LOS
ANGELES?

A I DO NOT KNOW IF SHE TOLD THEM WHEN SHE LEFT.

Q DO YOU KNOW WHAT THE STATUS IS OF MOST OF HIS RELATIVES WHO HAVE BEEN INDICTED HERE IN SAN DIEGO AND LOS ANGELES?

A THEY'RE ALL FUGITIVES OTHER THAN -- THE ONLY ARREST WE HAVE AT THIS POINT ARE MR. ROCA, BLANCA SUAREZ, BEATRIZ AND ASUNTA.

Q AND HIS WIFE?

A HIS WIFE CIRILA, BUT THAT WAS OUT OF THE LOS ANGELES INDICTMENT.

Q CIRILA HAS BEEN CHARGED IN THE TAX FRAUD CASE IN LOS ANGELES?

A THAT'S CORRECT.

Q AND THAT'S HIS WIFE?

A THAT'S CORRECT.

THE COURT: MAY I SPEAK TO YOU BOTH COUNSEL FOR A MOMENT, PLEASE? I DON'T NEED THE REPORT.

(UNREPORTED BENCH CONFERENCE.)

BY MS. MEZA:

Q SO WE WERE TALKING ABOUT THE DEFEN-

DANT"S WIFE, CIRILA?

A YES.

Q DO YOU SEE HER IN THE COURTROOM AT

THIS TIME?

A SHE'S SEATED IN THE FIRST ROW BACK,

THIRD FROM THE RIGHT.

Q DO YOU KNOW IF ANY OF HIS RELATIVES

WHO HAVE BEEN INDICTED AND WHO ARE WANTED

IN THE UNITED STATES, HAVE ANY OF THEM SE

SURRENDERED?

A NO, NO ONE HAS.

Q HAVE ANY OF THEM ATTEMPTED TO SURRE

DER TO AMERICAN LAW ENFORCEMENT OFFICERS

TO BOLIVIAN LAW ENFORCEMENT OFFICERS?

A ABSOLUTELY NOT.

THE COURT: TO YOUR KNOWLEDGE.

THE WITNESS: NOT TO MY KNOWLEGE, I

BY MS. MEZA:

Q OKAY. SIR, I WOULD LIKE TO ASK YOU A FEW QUESTIONS ABOUT THE CLAIM THAT WAS MADE THIS MORNING ABOUT THE ALLEGED TRANSFER OF FUNDS FROM THE DEFENDANT'S MOTHER TO THE DEFENDANT THAT EXPLAINED HIS RAGS TO RICHES SUCCESS.

SIR, IN THE COURSE OF THIS INVESTIGATION HAVE YOU LEARNED THE CIRCUMSTANCES REGARDING THE FILING OF THE TAX RETURN BY HIS MOTHER?

A YES, I HAVE.

Q WILL YOU TELL THE COURT WHAT YOU HAVE LEARNED ABOUT THAT ALLEGED TRANSFER?

A IN REVIEW OF DOCUMENTS, THERE WAS AN OVERT CONTACT, OPEN CONTACT MADE BY U.S. CUSTOMS AND I.R.S. TO A REAL ESTATE AGENT IN LOS ANGELES IN THEIR INVESTIGATION OF THE LOS ANGELES CASE.

A SHORT TIME LATER, ABOUT FIVE DAYS LATER THESE AGENTS WERE CONTACTED BY A TAX ATTORNEY, AND ABOUT THREE DAYS LATER THERE

WAS A GIFT TAX FORM FILED.

Q AND THAT TAX RETURN WAS FILED IN '88?

A THAT'S CORRECT.

Q AND IT REFLECTED THAT THE TRANSFER HAD OCCURRED BACK IN '85?

A THAT'S CORRECT.

Q AND THAT IS THE GIFT THAT THE DEFENDANT'S ATTORNEY IS REFERRING TO TO EXPLAIN THE WEALTH, THE SUDDEN WEALTH OF THE DEFENDANT?

A THAT IS CORRECT.

Q OKAY, SIR. I WOULD ALSO LIKE TO ASK YOU SOME QUESTIONS ABOUT CASH SEIZURES THAT HAVE BEEN CONNECTED TO THE DEFENDANT.

TELL US, HAVE YOU LEARNED ANY INFORMATION REGARDING CASE SEIZURES IN 1986 AND 19 1987 THAT WERE LINKED TO THE DEFENDANT'S ORGANIZATION?

A APPROXIMATELY $2.9 MILLION IN SEIZURES THAT WERE LINKED TO THE ROCA ORGANIZATION, AND THOSE SEIZURES WERE LINKED BY CONFIDENTIAL

INFORMANT THAT IS COOPERATING WITH THE LOS ANGELES CASE.

Q AND THAT IS THE SUBJECT OF THE LOS ANGELES INDICTMENT?

A THAT IS CORRECT.

Q THAT REFLECTS LARGE SHIPMENTS OF CASH THAT WENT FROM THE UNITED STATES AND WERE INTENDED TO GO TO BOLIVIA?

A THAT'S CORRECT.

Q AND WERE HIDDEN IN APPLIANCES?

A SECRETED IN VARIOUS APPLIANCES, THAT'S CORRECT.

Q SIR, I WOULD LIKE TO ASK YOU ABOUT A LARGE CASH SEIZURE THAT OCCURRED IN MIAMI IN 1987. PLEASE TELL US WHAT INFORMATION YOU HAVE IN REGARD TOTHAT.

A THERE WAS APPROXIMATELY $1.5 MILLION SEIZED, AND SUBSEQUENT TO THAT SEIZURE, AGENTS, AS INDICATED IN THE DECLARATION, WENT TO AND SPOKE WITH JORGE ROCA-SUAREZ, WHERE HE HAD $31,000 IN HIS HOTEL ROOM.

Q SO THE PERSON WHO HAD THE 1.5, APPROXIMATELY $1.5 MILLION IN CASH IDENTIFIED THE DEFENDANT AS THE RECIPIENT AT THAT TIME?

A I BELIEVE SO, YES.

Q NEXT I WOULD LIKE TO ASK YOU SOME QUESTIONS ABOUT A PROSECUTION, DRUG PROSECUTION OF THE DEFENDANT IN THE COUNTRY OF BOLIVIA.

TELL US WHAT YOU HAVE LEARNED WITH REGARD TO THAT PROSECUTION?

A REFERRING TO THE LA RAMADA LAB, WHICH IS A DRUG LAB THAT WAS TAKEN DOWN IN THE COUNTRY OF BOLIVIA -- AT THE LAB THERE WERE TWO PEOPLE ARRESTED, WHO GAVE THE INITIAL STATEMENTS THAT THE LAB WAS OWNED BY JORGE ROCA-SUAREZ.

LATER DURING THAT INVESTIGATION THOSE TWO PEOPLE WHO WERE ARRESTED RECANTED THEIR STATEMENTS, AND AT THAT POINT THE CASE WAS DROPPED.

THERE WAS AN INVESTIGATION CONDUCTED AFTER THAT TIME, AND THE SUPREME COURT OF BOLIVIA CHARGED TWO LOWER COURT JUDGES AND A PROSECUTOR WITH EVADING THE TRUTH, AND THOSE CHARGES WERE REINSTATED.

Q TO YOUR KNOWLEDGE, ARE THOSE JUDGES AND PROSECUTOR BEING PROSECUTED THEMSELVES FOR IMPROPERLY DISMISSING THE ACTION?

A TO MY KNOWLEGE THEY ARE, YES.

Q TO YOUR KNOWLEDGE, SIR, HAS THE WARRANT FOR THE ARREST OF THE DEFENDANT IN BOLIVIA BEEN REINSTATED?

A TO MY KNOWLEDGE THAT IS CORRECT.

Q NOW, SIR, THE DEFENDANT HAS ATTACHED DOCUMENTS FROM BOLIVIA THAT HE SAYS ESTABLISHES THAT THERE IS NO WARRANT FOR HIS ARREST PENDING IN BOLIVIA.

HAVE YOU REVIEWED THOSE DOCUMENTS?

A YES, I HAVE

Q SIR, I WOULD LIKE TO SHOW YOU THOSE DOCUMENTS AT THIS TIME. I'VE HANDED YOU

WHAT IS ENTITLED THE JUDGES OF THE FIRST NARCOTICS PORT OF THE JUDICIAL DISTRICT OF SANTA CRUZ CERTIFICATION, AND ASK IF YOU RECOGNIZE THOSE DOCUMENTS?

A YES, I DO.

Q ARE THOSE THE DOCUMENTS THAT YOU HAVE REVIEWED THAT WERE ATTACHED TO THE PAPERS THAT WERE FILED BY THE DEFENDANT THIS MORNING?

A YES.

Q DO THOSE DOCUMENTS INDICATE THAT THERE IS NO WARRANT PENDING FOR THE ARREST OF JORGE ROCA-SUAREZ IN BOLIVIA?

A WHAT IT INDICATES IS THERE ARE NO CHARGES IN THE JUDICIAL DISTRICT OF SANTA CRUZ?

Q THE DOCUMENTS THAT YOU PROVIDED AND THAT ARE ATTACHED TO THE GOVERNMENT'S PAPERS ORIGINATED WHERE?

A TRINIDAD.

Q WHAT PARTICULAR COURT?

A THE COURT OF TRINIDAD AND THEN AUTHENTICATED WITH THE SUPREME COURT IN SUCRE.

Q SO THE DOCUMENTS THAT THE DEFENDANT HAS SUBMITTED SIMPLY STATED THAT THERE ARE NO RECORDS OF ACTION PENDING AGAINST THE DEFENDANT IN SANTA CRUZ?

A THAT'S CORRECT.

Q I SHOW YOU WHICH IS A MAP OF BOLIVIA, AND ASK YOU --

THE COURT: WHAT EXHIBIT IS THAT, COUNSEL?

MS. MEZA: MAY WE HAVE THIS MARKED AS GOVERNMENT'S EXHIBIT A?

THE COURT: YOU'RE OFFERING IT TO SHOW THAT THERE WERE NO CHARGES PENDING IN TRINIDAD?

MS. MEZA: YOUR HONOR, THESE WERE DOCUMENTS THAT WERE ATTACHED TO THE DEFENDANT'S REPLY BRIEF THAT WAS FILED THIS MORNING.

THE COURT: OKAY.

MS. MEZA: I WILL MARK THE MAP AS GOVERNMENT'S EXHIBIT A.

THE CLERK: HOW ABOUT 1.

MS. MEZA: 1.

Q AGENT SKAGGS, I SHOW YOU WHAT HAS BEEN MARKED AS GOVERNMENT'S EXHIBIT 1 AND ASK YOU IF YOU RECOGNIZE WHAT THIS EXIBIT IS?

A IT'S A MAP OF BOLIVIA.

Q WOULD YOU INDICATE ON THIS MAP, SIR, WHERE SANTA CRUZ IS LOCATED?

A SANTA CRUZ IS HERE (INDICATING).

Q THAT IS THE LOCATION OF THE COURT THAT HAS INDICATED THERE IS NO ACTION PENDING AGAINST THE DEFENDANT IN THAT PARTICULAR AREA; IS THAT CORRECT?

A THAT'S CORRECT.

THE COURT: LET THE RECORD SHOW THAT THERE'S -- WHAT COLOR IS THAT DOT?

THE WITNESS: BLACK.

THE COURT: A BLACK DOT IN APPROXIMATELY THE CENTER OF THE RED OUTLINED AREA

OF THE MAP.

MR. ABZUG: JUST SO THE RECORD IS CLEAR, YOUR HONOR, I DON'T AGREE WITH THE CHARACTERIZATION, THE FACTS CONTAINED IN T THE QUESTION.

THE CERTIFICATIONS WERE ISSUED BY THE JUDICIAL DISTRICT OF SANTA CRUZ, I BELIEVE, THE CITY OF TRINIDAD. BUT SHE CAN GO ON WI WITH HER QUESTIONS.

BY MS. MEZA:

Q WOULD YOU INDICATE ON THIS MAP WHERE THE COURT OF TRINIDAD IS LOCATED?

A IT'S HERE (INDICATING).

Q WOULD YOU MARK ON THE MAP WITH THE LETTER 'T,' THE LOCATION OF TRINIDAD?

A (WITNESS COMPLIES)

Q WOULD YOU INDICATE FOR US THE APPROXIMATE LOCATION OF WHERE THE LABORATORY WAS THAT WITNESSES SAID WAS OWNED BY THE DEFENDANT?

A IN THE AREA OF TRINIDAD, APPROXIMATE LOCATION.

Q WHERE YOU HAD WRITTEN IN THE LETTER 'T,'; IS THAT CORRECT?

A THAT'S CORRECT.

Q AND THAT IS NORTH OF THE LOCATION WHERE YOU INDICATED THE SANTA CRUZ REGION IS LOCATED?

A THAT'S CORRECT.

Q NOW, THE DOCUMENTS THAT YOU HAVE PROVIDED THE COURT ORIGINATED IN WHAT AREA?

A THEY WERE AUTHENTICATED IN THE SUCRE AREA, WHICH IS WHERE THE SUPREME COURT OF BOLIVIA SITS.

Q FOR THE RECORD, WOULD YOU JUST WRITE IN THE LETTER 'S' TO REFLECT WHERE THE DOCUMENTS CAME FROM?

A (WITNESS COMPLIES.)

Q OKAY. YOU MAY RETURN TO THE WITNESS CHAIR.

SIR, IN THIS CASE THE DEFENDANT HAS BEEN INDICTED FOR THE CRIME OF BEING A LEADER OF A CONTINUING CRIMINAL ENTERPRISE.

WITHOUT DISCLOSING THE CONFIDENTIAL INFORMANT AT THIS TIME, WOULD YOU PLEASE BRIEFLY JUST TELL US SOME OF THE EVIDENCE YOU ARE AWARE OF THAT YOU HAVE REVIEWED WHICH SUPPORTS THE INDICTMENT IN THIS CASE?

A WELL --

MR. AZBUG: EXCUSE ME, YOUR HONOR, I HATE TO INTERRUPT, BUT I'M GOING TO OBJECT TO THE PROCEDURE. I THINK THE GOVERNMENT HAS TO PROCEED ONE OF TWO WAYS, EITHER THE -- IF THEY HAVE A CONFIDENTIALITY PROBLEM, THEY HAVE TO SUBMIT THE PROOF THAT THEY HAVE IN-CAMERA TO THE COURT SO YOU CAN INDEPENDENTLY EVALUATE THE RELIABILITY OF THAT INFORMATION, OR THEY HAVE TO TELL YOU ABOUT IT IN OPEN COURT. I DON'T THINK IT'S APPROPRIATE FOR THEM TO SIMPLY GO HAVE THE AGENT TESTIFY IN A VERY VAGUE FASHION ABOUT

INFORMATION THAT NOBODY KNOWS THE SOURCE OF.

THE COURT: I THINK COUNSEL IS CORRECT. YOU MAY SUBMIT THAT, AND I CAN LOOK IT OVER.

MS. MEZA: YOUR HONOR, I'M GOING TO ASK HIM TO IDENTIFY WHAT THIS IS THAT THE DEFENSE IS ALREADY AWARE OF, AND THE COURT CAN SIMPLY CONSIDER TO DETERMINE FOR ITSELF WHETHER OR NOT THERE IS SUBSTANTIAL EVIDENCE TO SUPPORT THE INDICTMENT.

WE CAN SIMPLY PROFFER THE INDICTMENT IN THIS CASE WHICH ESTABLISHES PROBABLE CAUSE TO BELIEVE THAT HE HAS COMMITTED THE ACTS THAT HE'S ACCUSED OF.

THE COURT: DO YOU HAVE AN INDICTMENT?

MS. MEZA: THERE IS AN INDICTMENT, YOUR HONOR.

THE COURT: WHY DON'T YOU SUBMIT THAT. AND YOU WANT TO SUBMIT THE NAMES OF SOME WITNESSES?

MS. MEZA: YES.

THE COURT: OKAY. NOW, GO INTO WHAT THE WITNESSES WOULD SAY.

MS. MEZA: YOUR HONOR, SIMPLY WHAT THE AGENT WILL SAY IS THAT THERE IS AN INDIVIDUAL BY THE NAME OF DAVID WHEELER, WHO TESTIFIED UNDER OATH IN AN UNDERLYING CASE, AND TESTIFIED THAT THE DEFENDANT WAS PRESENT AT A MEETING IN BOLIVIA WHERE THEY DISCUSSED --

THE COURT: I THINK SHE CAN GO THAT FAR, COUNSEL. YOU MAY GO THAT FAR.

BY MS. MEZA:

Q AGENT SKAGGS, WOULD YOU TELL US ABOUT THE TESTIMONY OF DAVID WHEELER?

MR. ABZUG: THAT'S ALREADY BEEN SUBMITTED, YOUR HONOR. THE TRANSCRIPT HAS ALREADY BEEN SUBMITTED TO THE COURT AS PART OF THE DECLARATION.

THE COURT: LET'S START OUT WITH THE INDICTMENT FIRST.

BY MS. MEZA:

Q SIR, HAVE YOU REVIEWED THE INDICTMENT IN THIS CASE?

A YES.

Q WHAT DID THE INDICTMENT CHARGE THE DEFENDANT WITH?

A AS THE LEADER OF A CONTINUING CRIMINAL ENTERPRISE.

Q SIR, I WOULD LIKE TO SHOW YOU --

SHOULD I HAVE THIS MARKED AS AN EXHIBIT YOUR HONOR?

THE COURT: YES.

THE CLERK: YOUR HONOR, THIS IS THE INDICTMENT. IT'S ALREADY PART OF THE FILE. YOU DON'T NEED TO HAVE IT MARKED.

BY MS. MEZA:

Q AGENT SKAGGS, I HAND YOU WHAT IS A COPY OF THE INDICTMENT IN THIS CASE.

WHO WAS THE LEAD DEFENDANT IN THAT INDICTMENT?

A JORGE ROCA-SUAREZ.

Q WHAT CRIMES ARE CHARGED IN THAT INDICTMENT?

A NUMEROUS, BUT THE MAIN CRIME IS VIOLATION OF TITLE 21, 848(B), CONTINUING CRIMINAL ENTERPRISE/PRINCIPAL ADMINISTRATOR, ORGANIZER AND LEADER.

Q NOW, IN CONNECTION WITH THAT INDICTMENT, SIR, ARE YOU FAMILIAR WITH THE TESTIMONY OF AN INDIVIDUAL BY THE NAME OF DAVID WHEELER?

A YES, I AM.

Q PLEASE TELL THE COURT WHAT MR. WHEELER SAID WITH REGARD TO THE DEFENDANT.

A THAT DURING A MEETING DISCUSSING THE PURCHASE OF 5,000 KILOGRAMS OF COCAINE THAT OCCURRED IN BOLIVIA, MR. ROCA WAS PRESENT AND WAS INVOLVED IN THAT TRANSACTION.

MR. ABZUG: OBJECTION, YOUR HONOR. MOVE TO STRIKE. THAT'S ABSOLUTELY NOT WHAT THE TRANSCRIPT SAYS, IF THAT'S WHAT HE'S PURPORTING TO SUMMARIZE, YOUR HONOR. THE

TRANSCRIPT IS BEFORE THE COURT. I WOULD MOVE TO STRIKE THAT TESTIMONY, YOUR HONOR. IT'S TOTALLY INACCURATE.

THE COURT: YOU CAN BRING THE COURT'S ATTENTION TO THAT, CAN'T YOU?

MR. ABZUG: YES.

BY MS. MEZA:

Q AGENT SKAGGS, ARE YOU ALSO FAMILIAR WITH AN INDIVIDUAL BY THE NAME OF EFREN MENDEZ?

A YES.

Q WHO IS THAT INDIVIDUAL?

A HE WAS CHARGED IN THE UNDERLYING CASE AS A DEFENDANT, EFREN MENDEZ-DUENAS.

Q HE WAS A CO-CONSPIRATOR IN THAT 5,000 KILOGRAM TRANSACTION?

A THAT'S CORRECT.

Q WAS HE CONVICTED IN THAT CASE?

A YES, HE WAS.

Q IS HE CURRENTLY SERVING A LONG PRISON TERM?

A YES, HE IS.

Q SIR, TO YOUR KNOWLEDGE DID HE GIVE A STATEMENT AFTER HIS ARREST?

A YES, HE DID.

Q DID HE EVER SAY ANTHING ABOUT THE DEFENDANT AFTER HE WAS ARRESTED?

A HE IDENTIFIED TECHO DE PAJA, WHIS IS AN ALIAS OF JORGE ROCA-SUAREZ, AS A MAJOR COCAINE DEALER IN BOLIVIA.

Q IN ADDITION TO THE SAN DIEGO INDICTMENT, THE DEFENDANT HAS ALSO BEEN CHARGED IN LOS ANGELES; IS THAT CORRECT?

A THAT'S CORRECT.

MS. MEZA: YOUR HONOR, THE GOVERNMENT WOULD ALSO PROFFER THE INDICTMENT IN THE CENTRAL DISTRICT OF CALIFORNIA.

THE COURT: THE COURT RECORD. I CAN TAKE JUDICIAL NOTICE OF IT.

MS. MEZA: THANK YOU.

Q SIR, IN ADDITION TO THE INDICTMENT AND THE STATEMENTS THAT WERE MADE BY THESE

INDIVIDUALS, DO YOU HAVE ANY OTHER INFORMATION THAT YOU HAVE RECEIVED FROM BOLIVIA WITH REGARD TO THE CHARACTER AND THE REPUTATION OF THE DEFENDANT IN THAT COUNTRY?

SPECIFICALLY, SIR, HAVE YOU RECEIVED NEWSPAPER ARTICLES FROM THAT COUNTRY?

MR. ABZUG: NO. 1, I'M GOING TO OBJECT TO ANY FURTHER RELIANCE UPON NEWSPAPER ARTICLES AS EXTREMELY UNRELIABLE.

NO. 2, THE DEFENDANT'S CHARACTER AND REPUTATION IN BOLIVIA, WHATEVER THAT MEANS - I HAVE NO IDEA WHAT SHE'S GETTING AT -- IS IRRELEVANT AS TO THESE PROCEEDINGS.

THE QUESTION IS WHETHER HE'S A FLIGHT RISK AND WHETHER HE'S A DANGER TO THIS COMMUNITY IN THE UNITED STATES.

IT'S JUST AN EFFORT TO BLACKEN HIS CHARACTER, YOUR HONOR, I GUESS. I HAVE NO IDEA WHAT THE RELEVANCE THE SOURCE OF THIS INFORMATION IS.

THE COURT: WELL, I THINK HIS REPUTATION WOULD BE ADMISSIBLE. I'LL EXCLUDE THE TESTIMONY ABOUT NEWSPAPER ARTICLES. HIS REPUTATION, IF HE KNOWS ABOUT THEM, WOULD BE ADMISSIBLE.

MR. ABZUG: THE NEWSPAPERS?

THE COURT: NO, NOT FROM THE NEWSPAPER. IF HE KNOWS OF HIS OWN KNOWLEDGE.

MR. ABZUG: THAT'S WHAT HE'S BASING HIS TESTIMONY ON.

THE COURT: WELL, THAT'S MY RULING, AND WE'LL SEE WHERE HE GETS IT FROM.

BY MS. MEZA:

Q HAVE YOU REVIEWED ANY INFORMATION REGARDING THE DEFENDANT'S REPUTATION IN BOLIVIA?

A RECEIVED INFORMATION FROM SEVERAL SOURCES, BUT ESPECIALLY OUR OFFICE IN BOLIVIA THAT JORGE ROCA-SUAREZ, TECHO DE PAJA, IS A WELL KNOWN DRUG TRAFFICKER IN BOLIVIA.

Q IS HE CONSIDERED A LEADER OF THE DRUG CARTEL IN BOLIVIA?

A THAT'S CORRECT.

MR. ABZUG: YOUR HONOR, I'M GOING TO OBJECT TO THAT LAST BIT OF TESTIMONY, YOUR HONOR, AS COMPLETELY CONCLUSIONARY, UNRELIABLE, AND NOT WORTHY OF THIS COURT'S CONSIDERATION OR INCLUSION IN THIS RECORD.

THE COURT: I'LL LET YOU GO INTO THAT. I'LL RESERVE RULING ON IT.

LET'S BREAK FOR LUNCH. WE'LL BE IN RECESS UNTIL 1:15.

(LUNCHEON RECESS.)

* * *

San Diego, California - Wednesday, July 10, 1991 - 1:15 P.M.

* * *

THE COURT: WE ARE BACK IN SESSION. COUNSEL, YOU MAY PROCEED.

MR. ABZUG: WOULD THE COURT LIKE MR. AGENT SKAGGS TO TAKE THE STAND.

THE COURT: IF YOU LIKE.

MR. ABZUG: I WOULD LIKE TO CROSS EXAMINE HIM.

CROSS EXAMINATION

BY MR. ABZUG:

Q SPECIAL AGENT SKAGGS, I WANT TO DIRECT YOUR ATTENTION FIRST TO YOUR TESTIMONY REGARDING THE CIRCUMSTANCES OF MR. ROCA'S ARREST, DECEMBER 13TH, 1990.

A YES, SIR.

Q DID YOU YOURSELF PARTICIPATE IN THAT ARREST?

A YES, I DID.

Q AND I THINK YOU TESTIFIED ON DIRECT EXAMINATION THAT THE ARREST OCCURRED ABOUT THREE BLOCKS FROM MR. ROCA'S HOUSE; IS THAT CORRECT?

A THAT IS CORRECT.

Q AT THE TIME OF HIS ARREST, HE WAS ACCOMPANIED BY HIS WIFE; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q HOW WAS IT THAT THE DEA WAS ABLE TO LOCATE HIM ON THAT DAY?

A IT WAS ACTUALLY A CHANCE LOCATION, AS WE ONLY HAD THREE CARS IN THE AREA AND WE WERE AT THAT TIME INSTALLING OR HAD SOME SURVEILLANCE EQUIPMENT, AND WE WERE ATTEMPTING TO MONITOR THE AREA.

AND MR. ROCA AND HIS WIFE CAME OUT AND GOT IN THE CAR AND LEFT THE AREA.

Q LET ME APPROACH IT IN A DIFFERENT DIRECTION.

THE WARRANT WAS ISSUED FROM A SEALED INDICTMENT SOMETIME IN NOVEMBER OF 1990; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q AT SOME POINT I ASSUME THAT A DECISION WAS MADE BY THE HIGHER AUTHORITIES THAT THE WARRANT SHOULD BE EXECUTED AND MR. ROCA WOULD BE ARRESTED, CORRECT?

A WE WERE DEFINITELY ACTIVELY LOOKING FOR HIM. THAT IS CORRECT.

Q WELL, MY DIRECT QUESTION TO YOU, SIR, IS, DO YOU KNOW WHEN EXACTLY A DECISION WAS MADE TO ARREST MR. ROCA ON THE WARRANT?

A AFTER THE INDICTMENT WAS RETURNED IN LOS ANGELES.

Q WHICH WAS WHEN?

A I DON'T KNOW THE EXACT DATE, BUT IT WAS LATER.

Q LATER THAN WHAT?

A LATER THAN OUR INDICTMENT WAS RETURNED.

Q YOU HAVE NO IDEA OF THE TIMING AT ALL OF WHEN THE DECISION WAS MADE TO TRY TO FIND MR. ROCA;IS THAT RIGHT?

A IT WAS AFTER OUR INDICTMENT AND THEN AFTER THE FINAL INDICTMENT WAS RETURNED IN LOS ANGELES ON THE OTHER CASE.

Q WELL, IN ANY EVENT, PERHAPS YOU CAN ASSIST US ON THIS QUESTION.

HOW LONG AFTER YOU STARTED SETTING UP SURVEILLANCE, THIS EQUIPMENT IN THE AREA OF MR. ROCA'S HOUSE, DID HE ARRIVE ON THE SCENE

AND YOU WERE ABLE TO ARREST HIM?

A THE SECOND DAY.

Q OKAY. DID YOU HAVE THE SURVEILLANCE WHERE YOU WERE ACTUALLY MONITORING MR. ROCA'S HOUSE CONTINUOUSLY FOR TWO DAYS?

A WE WERE MONITORING. NOT 24-HOUR SURVEILLANCE, BUT FOR MOST OF THE DAY, YES.

Q ALL THE TIME?

A FOR TWO DAYS, YES.

Q HOW WERE YOU MONITORING THE HOUSE? WAS SOMEBODY ACTUALLY PRESENT THERE OR WAS THERE A CAMERA?

A VISUAL SURVEILLANCE, AND ALSO A CAMERA.

Q SO YOU WERE SURVEILLING THE HOUSE OFF AND ON FOR TWO DAYS AND THEN YOU WERE ABLE TO LOCATE HIM?

A THAT IS CORRECT.

Q YOU DON'T DISPUTE, I ASSUME, THAT MR. ROCA HAS BEEN EDUCATED IN THE UNITED STATES SINCE GRADE SCHOOL, DO YOU?

A I AM NOT DISPUTING THAT, NO.

Q YOU DON'T DISPUTE THAT HE HAS BEEN EMPLOYED IN THE UNITED STATES, DO YOU?

A NO.

Q YOU DON'T DISPUTE THAT HE OWNS A TREMENDOUS AMOUNT OF PROPERTY HERE IN THE UNITED STATES, DO YOU?

A OF COURSE NOT.

Q THAT HE WAS MARRIED IN THE UNITED STATES?

A I DON'T KNOW WHERE HE WAS MARRIED.

Q THAT HE IS A LEGAL RESIDENT?

A YES.

Q NOW, THE HOUSE THAT YOU ARRESTED HIM CLOSE BY, THAT IS THE HOUSE WHERE HE, HIS WIFE, AND FOUR CHILDREN LIVE, RIGHT? AS FAR AS YOU KNOW.

A THERE WERE TWO PRIMARY RESIDENCES, AND THAT IS ONE OF THEM.

Q WHERE IS THE OTHER PRIMARY RESIDENCE?

A 262 REBECCA DRIVE.

Q THAT IS ALSO IN LOS ANGELES; IS THAT

RIGHT?

A THAT IS CORRECT.

Q HOW LONG DID THEY OWN THE RESIDENCES?

A I DON'T RECALL.

Q YOU HAVE NO IDEA? THEY COULD HAVE OWNED THEM FOR 20 YEARS, FOR ALL YOU KNOW?

A I DON'T BELIEVE IT WAS FOR 20 YEARS, BUT I DON'T KNOW THE EXACT DATES. I DON'T HAVE THE FIGURES IN FRONT OF ME.

Q BUT YOU DO KNOW THAT THE PRIMARY RESIDENCES OF MR. ROCA AND HIS FAMILY ARE IN LOS ANGELES, CORRECT?

A THAT IS CORRECT.

Q THERE IS NO PRIMARY RESIDENCES OUTSIDE THE UNITED STATES, ARE THERE?

A WELL, THERE IS NUMEROUS PROPERTY OWNED IN BOLIVIA, BUT I DON'T -- AS FAR AS PRIMARY RESIDENCE, SECONDARY RESIDENCE, I COULDN'T -- WOULDN'T BE ABLE TO TELL YOU.

Q THE ANSWER TO MY QUESTION IS NO, ISN'T THAT RIGHT? THERE ARE NO PRIMARY

RESIDENCES BELONGING TO MR. ROCA OUTSIDE OF THE UNITED STATES?

MS. MEZA: OBJECTION, YOUR HONOR. MISSTATES THE WITNESS'S TESTIMONY. HE SAID HE DIDN'T KNOW.

THE COURT: THE QUESTION IS ARGUMENTATIVE. I WILL SUSTAIN THE OBJECTION ON THAT GROUND.

MR. ABZUG:

Q YOU MENTIONED YOU HAD SOME INFORMATION THAT MR. ROCA WAS IN BOLIVIA AT SOME POINT IN TIME.

WHAT WAS THE LAST TIME, ACCORDING TO THE INFORMATION YOU RECEIVED, HE WAS IN BOLIVIA?

A THAT WOULD HAVE BEEN THE FIRST PART OF DECEMBER.

Q OF WHAT YEAR?

A 1990.

Q AND WHAT IS THE SOURCE OF YOUR INFORMATION?

A CONFIDENTIAL SOURCES FROM THAT OFFICE AND BOLIVIA, OUR OFFICES THERE.

Q SO YOU ARE BASING YOUR TESTIMONY ON A CONVERSATION THAT YOU HAD WITH WHAT, ANOTHER DEA AGENT?

A OTHER AGENTS IN BOLIVIA, THAT IS CORRECT.

Q BOLIVIA? AND THEY TOLD YOU THEY HAD SOME SOURCE THAT TOLD THEM THAT MR. ROCA WAS IN BOLIVIA IN DECEMBER OF 1990; IS THAT YOUR TESTIMONY?

A I AM TELLING YOU THAT THE DEA OFFICE IN BOLIVIA ADVISED ME THAT THEY BELIEVED MR. ROCA TO BE IN BOLIVIA AT THAT TIME.

Q MY QUESTION TO YOU IS, DID YOU HAVE ANY KNOWLEDGE AS TO THE BASIS OF WHAT THEY WERE TELLING YOU?

A WHAT THE EXACT SOURCE OF THEIR INFORMATION IS, NO, I DID NOT.

Q IT COULD BE THIS NEWSPAPER ARTICLE YOU HAVE BEEN FILING WITH THE COURT?

MS. MEZA: OBJECTION, YOUR HONOR. CALLS FOR SPECULATION.

BY MR. ABZUG:

Q WELL, YOU DON'T KNOW; ISN'T THAT RIGHT?

MS. MEZA: ASKED AND ANSWERED.

THE COURT: OVERRULED.

BY MR. ABZUG:

Q YOU DON'T KNOW; ISN'T THAT RIGHT?

A I DO NOT KNOW HOW THEY KNEW, NO, I DO NOT.

Q HOW MANY TIMES, IF YOU KNOW, ACCORDING TO THE INFORMATION THAT YOU HAVE, HAS MR. ROCA BEEN TO BOLIVIA, SAY SINCE 1985?

A HOW MANY TIMES HAS HE BEEN THERE? I DON'T KNOW.

Q YEAH. YOU SAID YOU HAD INFORMATION THAT HE FREQUENTLY TRAVELED TO BOLIVIA. I WANT TO KNOW HOW MANY TIMES HE HAS BEEN TO BOLIVIA ACCORDING TO THIS INFORMATION YOU RECEIVED.

A I DO NOT KNOW.

Q OKAY. LET'S MOVE ON TO ANOTHER SUBJECT AND TALK ABOUT THE DOCUMENTATION THAT YOU FOUND IN MR. ROCA'S HOUSE.

ONE OF THE PIECES OF DOCUMENTATION THAT YOU FOUND IN THE HOUSE THAT YOU BROUGHT TO THE COURT'S ATTENTION WAS -- WERE WHAT YOU DESCRIBED AS PASSPORT PHOTOS.

DO YOU RECALL THAT TESTIMONY ON DIRECT EXAMINATION?

A YES.

Q NOW, TO YOUR KNOWLEDGE, WERE THESE PASSPORT PHOTOS EVER USED?

A NOT TO MY KNOWLEDGE, NO.

Q DO YOU HAVE ANY KNOWLEDGE THAT MR. ROCA EVER OWNED A FICTITIOUS PASSPORT?

A NO, I DO NOT.

Q DO YOU HAVE ANY INFORMATION MR. ROCA EVER TRAVELED UNDER A FICTITIOUS NAME?

A NO, I DON'T.

Q YOU ALSO SAID THERE WAS A VACCINATION RECORD THAT WAS IN HIS -- THAT IT WAS IN HIS

HOUSE, AND YOU OFFERED THE OPINION THAT IT IS GENERALLY -- A VACCINATION RECORD IS GENERALLY USED IN CONNECTION WITH TRAVEL. DO YOU GENERALLY RECALL GIVING THAT TESTIMONY?

A YES, I DO.

Q BUT AS FAR AS YOU KNOW, IF IT WAS USED IN TRAVEL, IT COULD HAVE BEEN USED IN TRAVEL THAT WAS ENTIRELY LEGITIMATE, THAT IS UNDER HIS TRUE AND CORRECT NAME; ISN'T THAT RIGHT?

A IT IS POSSIBLE, BUT THE VACCINATION CERTIFICATE IS UNDER A FALSE NAME.

Q NOW, LET'S MOVE ON TO THE TESTIMONY THAT YOU GAVE ABOUT MR. ROCA PURCHASING PROPERTY IN BOLIVIA UNDER AN ALIAS.

MR. ABZUG: AND, YOUR HONOR, AT THIS POINT I WOULD LIKE TO MAKE A REPRESENTATION TO THE COURT, IF I MAY.

THE COURT: YOU MAY.

MR. ABZUG: THE COURT WILL RECALL THAT THE SOURCE OF THIS INFORMATION AS DESCRIBED BY THE WITNESS WAS AN INVESTIGATIVE REPORT

PREPARED BY THE DRUG ENFORCEMENT ADMINISTRATION FOR THE SANTA CRUZ OFFICE.

MS. MEZA CAN CORRECT ME IF I AM WRONG, BUT MY UNDERSTANDING IS BASED ON A CONVERSATION I HAD WITH HER OUTSIDE THE COURT, IT WAS THAT THAT REPORT WAS NOT AVAILABLE FOR THE COURT'S REVIEW TODAY.

I SPECIFICALLY DEMANDED OR REQUESTED THAT MS. MEZA GIVE ME THAT REPORT SO EITHER I COULD REVIEW IT, BECAUSE IT HASN'T BEEN PROVIDED TO US IN DISCOVERY, AND CROSS-EXAMINE THIS AGENT UPON IT, OR, AT A MINIMUM, IT COULD BE GIVEN TO YOU SO YOU COULD TAKE A LOOK AT IT AND SEE WHETHER IT SUPPORTS WHAT THE AGENT IS SAYING.

AND APPARENTLY IT IS NOT AVAILABLE FOR EITHER PURPOSES.

MS. MEZA: YOUR HONOR, THIS REPORT WAS RECENTLY PROVIDED TO THE GOVERNMENT IN SAN DIEGO. AND I HAVE INDICATED TO MR. ABZUG THAT IT WILL BE PROVIDED TO HIM AS DISCOVERY.

HE CAN CERTAINLY QUESTION THE AGENT ABOUT WHAT IS CONTAINED IN THAT REPORT. WE HAVE NOT BLACKED OUT THE PORTIONS OF THE REPORT THAT SHOULD REMAIN CONFIDENTIAL, BUT WE CERTAINLY HAVE DISCLOSED THE EXISTENCE.

THE COURT: YOU HAVE NOT DISCLOSED IT TO HIM YET, THOUGH.

MS. MEZA: NO.

MR. ABZUG: THEY CAN'T HAVE IT BOTH WAYS, YOUR HONOR.

THEY CAN'T BRING OUT THIS INFORMATION IN THE REPORT, CLAIM THAT THEY ARE RELYING ON ITS EXISTENCE, ASK THE COURT TO DETAIN MY CLIENT ON THE BASIS OF THIS INFORMATION AND THEN NOT -- IT IS BAD ENOUGH THEY DON'T PROVIDE IT TO ME SO I CAN CROSS-EXAMINE, BUT AT LEAST THEY SHOULD PROVIDE IT TO YOU SO YOU CAN SEE WHAT IT LOOKS LIKE.

THE COURT: WE ARE LIVING IN A CHANGING WORLD DAY BY DAY, SO YOU WILL HAVE A CHANCE TO SEE IT.

IT THAT APPEARS TO BE SOMETHING THAT HAS GREAT MOMENT, THEN I WILL CONSIDER THAT.

MR. ABZUG: I UNDERSTAND. UNFORTUNATELY, I NEED IT NOW.

THE COURT: YOU WOULD LIKE TO HAVE IT.

MR. ABZUG: I'D LIKE SOMEBODY TO HAVE IT BESIDES MS. MEZA.

THE COURT: SHE SAYS SHE WILL GIVE IT TO YOU. I WILL MAKE AN ORDER.

CAN YOU GET IT TO HIM WITHIN TEN DAYS, MS. MEZA?

MS. MEZA: YES, YOUR HONOR.

THE COURT: OKAY.

BY MR. ABZUG:

Q WELL, THE DRUG ENFORCEMENT ADMINISTRATION REPORT THAT IS GOING TO BE FURNISHED TO ME WITHIN TEN DAYS, THAT REPORT IS BASED UPON WHAT INFORMATION, IF YOU KNOW?

A INFORMATION RECEIVED BY AGENTS IN SANTA CRUZ.

Q NOW, DOES THE REPORT DESIGNATE THE SOURCE OF THE INFORMATION THAT THE AGENTS IN SANTA CRUZ RECEIVED?

A IT IS FROM A CONFIDENTIAL SOURCE OF INFORMATION.

Q DOES THE REPORT REVEAL THAT CONFIDENTIAL INFORMANT'S NAME?

A NO, IT DOES NOT.

Q DOES THE REPORT REVEAL WHETHER THE CONFIDENTIAL INFORMANT -- OR HOW LONG THE CONFIDENTIAL INFORMANT HAS ACTED AS AN INFORMANT WITH THE DEA?

A NO, IT DOES NOT.

Q DOES THE REPORT INDICATE WHETHER THE CONFIDENTIAL INFORMANT HAS PROVIDED RELIABLE INFORMATION IN THE PAST?

A NO, IT DOES NOT.

Q DOES IT INDICATE THAT CONFIDENTIAL INFORMANT'S INFORMATION HAS EVER BEEN INDEPENDENTLY VERIFIED BY THE DRUG ENFORCEMENT ADMINISTRATION?

A NO, IT DOES NOT.

Q DOES THE REPORT INDICATE THAT BASED ON THE INFORMATION THAT THE CONFIDENTIAL INFORMANT ALLEGEDLY FURNISHED, THE DRUG ENFORCEMENT ADMINISTRATION WENT OUT AND VERIFIED WHETHER THESE PROPERTIES EVEN EXISTED?

A NO, IT DOES NOT.

Q WELL, WHEN DID THE CONFIDENTIAL INFORMANT GIVE THIS INFORMATION TO THE DRUG ENFORCEMENT ADMINISTRATION?

A I DO NOT KNOW. ALL I REMEMBER IS PART OF THE REPORT.

Q DOES IT IDENTIFY WHAT THE ALIAS THAT HE SUPPOSEDLY USED WAS?

A YES, JOSE ARTEAGA-FERNANDEZ.

Q DOES IT INDICATE HOW MANY PROPERTIES MR. ROCA ALLEGEDLY PURCHASED UNDER THESE ALIASES?

A NO, IT DOES NOT. THAT PARTICULAR REPORT ONLY INVOLVES THE ACTUAL ALIAS AND SOME OTHER INDICATIONS.

THE INFORMATION ABOUT THE PROPERTY CAME TO ME DIRECTLY FROM AGENTS IN BOLIVIA. IT IS NOT INDICATED WHICH PROPERTY AND THE AMOUNTS IN THAT PARTICULAR REPORT.

Q SO IN ADDITION TO THIS REPORT YOU GOT ORAL INFORMATION FROM AGENTS IN BOLIVIA; IS THAT CORRECT?

A THAT IS CORRECT.

Q AND IN THOSE CONVERSATIONS, IF YOU KNOW, WERE THEY RELYING ON THE SAME SOURCE OF INFORMATION AS DESIGNATED IN THIS REPORT?

A I DO NOT KNOW IN PARTICULAR WHICH SOURCE OR SOURCES THE INFORMATION CAME FROM.

Q AGAIN, YOU HAVE NO WAY OF TELLING THIS COURT WHETHER THE INFORMATION THAT THEY WERE RELATING TO YOU ORALLY IS RELIABLE OR NOT; ISN'T THAT RIGHT?

A I DO NOT KNOW.

Q NOW, YOU MENTIONED THAT A NUMBER OF OTHER ROCA FAMILY MEMBERS HAVE BEEN CHARGED IN THIS CASE, AND I AM TALKING ABOUT THE

SAN DIEGO NARCOTICS CASE.

A THAT IS CORRECT.

Q ONE OF THEM IS BEATRIZ ROCA; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q BEATRIZ ROCA WAS RELEASED ABOUT THREE OR FOUR MONTHS AGO, WASN'SHE?

A I BELIEVE THAT IS ABOUT THE CORRECT TIME FRAME.

Q AND SHE IS CHARGED -- SHE IS THIS YOUNG LADY TO MY LEFT; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q AND SHE IS CHARGED WITH NARCOTICS TRAFFICKING TOO, ISN'T SHE?

A YES.

Q AND IS IT YOUR UNDERSTANDING OF THE LAW THAT IF THIS YOUNG WOMAN IS CONVICTED THAT SHE IS GOING TO SERVE A MINIMUM OF TEN YEARS IN JAIL AND A MAXIMUM OF LIFE IN JAIL; ISN'T THAT RIGHT?

A I DON'T KNOW THE EXACT PENALTY SECTION, BUT THAT SOUNDS CORRECT.

Q ARE YOU FAMILIAR AT ALL WITH THE GUIDELINES, THE SENTENCING GUIDELINES?

MS. MEZA: OBJECTION. HE IS GOING TO ASK THE WITNESS FOR LEGAL CONCLUSIONS, YOUR HONOR.

THE COURT: WELL, LET'S SEE, I GUESS IT IS A FOUNDATIONAL QUESTION. I AM GOING T TO LET HIM ASK AND SEE IF IT IS PERTINENT.

YOU MAY ANSWER. YOU HAVE HEARD ABOUT THEM?

THE WITNESS: OF COURSE I HEARD ABOUT THE PENALTY SECTIONS. I DON'T KNOW EXACTLY WHAT THEY ARE FOR EACH PARTICULAR CHARGE.

BY MR. ABZUG:

Q LET ME APPROACH THIS WAY.

WOULD YOU DISAGREE WITH ME IF I WERE TO TELL YOU THAT THE GUIDELINES APPLICABLE IN HER CASE WOULD DICTATE A SENTENCE OF AROUND SEVENTEEN AND A HALF YEARS IF SHE IS

CONVICTED ON THESE CHARGES?

A I WOULDN'T DISAGREE, NO.

Q DO YOU HAVE ANY INFORMATION WHATSOEVER THAT THER PERFORMANCE ON BOND SINCE HER RELEASE HAS BEEN ANYTHING LESS THAN ABSOLUTELY PERFECT?

A I HAVE NO INFOMRATION ABOUT IT WHATSOEVER.

Q WOULD YOUR TESTIMONY BE ABOUT THE SAME WITH RESPECT TO MY CLIENT'S WIFE, CIRILA ROCA, WHO HAS BEEN OUT ON BAIL FOR APPROXIMATELY SEVEN TO EIGHT MONTHS?

A I HAVE NO KNOWLEDGE ABOUT THAT. CIRILA WAS CHARGED OUT OF THE LOS ANGELES INDICTMENT.

Q NOW, WITH RESPECT TO YOUR TESTIMONY ABOUT THE TAX RETURN THAT WAS FILED BY BLANCA SUAREZ IN 1988 WHICH PERTAINS TO THE GIFT THAT SHE GAVE HER SON, MY CLIENT, IN 1985, YOU SAID YOU REVIEWED SOME DOCUMENTATION ABOUT THAT TAX RETURN.

WHAT IS IT EXACTLY YOU LOOKED AT?

A I LOOKED AT THE GIFT TAX RETURN.

Q JUST THE GIFT TAX RETURN?

A THAT IS CORRECT.

Q ARE YOU AWARE OR DO YOU KNOW WHETHER THERE HAS BEEN CORRESPONDENCE BETWEEN THE INTERNAL REVENUE SERVICE AND TAX LAWYERS BY THE NAME OF BRUCE HOFFMAN AND DAVID KALISH FOR YEARS REGARDING THE TIMING OF THIS RETURN?

HAVE YOU SEEN ANY OF THE CORRESPONDENCE OR DO YOU KNOW WHETHER IT EXISTS?

A THE ONLY THING THAT I REVIEWED ALONG THOSE LINES WAS THAT INFORMATION FROM KENT GREENBERG FROM THE IRS THAT GREENBERG AND INTINARELLI HAD CONTACTED A REAL ESTATE AGENT AFTER WHICH ABOUT FIVE DAYS LATER THEY WERE CONTACTED BY A TAX ATTORNEY.

Q BUT AS FAR AS REVIEWING ANY OTHER DOCUMENTS THAT MAY HAVE BEEN FILED WITH THE INTERNAL REVENUE SERVICE PERTAINING TO THIS

GIFT TAX RETURN, THE ONLY THING YOU LOOKED AT WAS THE RETURN ITSELF, RIGHT?

A THE RETURN AND CORRESPONDENCE -- NOT CORRESPONDENCE, BUT STATEMENTS IN THE REPORTS BY GREENBERG AND INTINARELLI.

Q IN THEIR CONVERSATION THAT THEY HAD -- OR IN HIS CONVERSATION THAT HE HAD WITH YOU REGARDING HIS CONTACT WITH THIS REAL ESTATE AGENT, DID AGENT GREENBERG -- THE AGENT'S NAME, INCIDENTLY, IS MR. MIRANDA; ISN'T THAT RIGHT?

A NO.

Q NO?

A INTINARELLI AND GREENBERG.

Q NO. THE REAL ESTATE AGENT'S NAME THAT WAS CONTACTED IS A FELLOW BY THE NAME OF MIRANDA; ISN'T THAT RIGHT? OR DO YOU KNOW?

A I DON'T RECALL HISNNAME.

Q WELL, ANYHOW, YOU HAD A CONVERSATION WITH GREENBERG AND INTINARELLI ABOUT A CONTACT THEY HAD WITH THE REAL ESTATE AGENT,

RIGHT, OR NOT?

A I DIDN"T HAVE A CONVERSATION WITH THEM ABOUT IT. I READ SOME INFORMATION PROVIDED TO ME IN THE REPORT, ET CETERA.

Q ANYWAY, IT WAS SOME SORT OF INVESTIGATIVE MEMORANDUM YOU REVIEWED?

A THAT IS CORRECT, YES.

Q IN THE INVESTIGATIVE MEMORANDUM, DID THEY SAY THAT MIRANDA TOLD THEM ABOUT A $1.5 MILLION GIFT THAT MR. ROCA HAD RECEIVED FROM HIS MOTHER?

A NO, I SAW NOTHING OF THAT KIND.

Q NOW, LET'S MOVE ON TO THE INFORMANT THAT HAS BEEN PROVIDING INFORMATION IN CONNECTION WITH THE LOS ANGELES PROSECUTION.

AND I AM NOT GOING TO ASK YOU THE IDENTITY OF THAT INFORMANT, ALTHOUGH I WOULD LIKE TO KNOW.

BUT LET ME ASK YOU THIS QUESTION, HOW LONG HAS THIS INFORMANT, WITHOUT DISCLOSING HIS IDENTITY, HOW LONG HAS THE INFORMANT

BEEN PROVIDING INFORMATION TO THE GOVERNMENT, IF YOU KNOW?

A I DO NOT KNOW.

Q DO YOU KNOW WHETHER THE INFORMANT'S RELIABILITY HAS EVERY BEEN CORROBORATED IN ANY WAY BY THE GOVERNMENT?

A NO, I DO NOT.

Q HAVE YOU -- THE INFORMATION THAT YOU RECEIVED FROM THE INFORMANT, WAS IT INFORMATION THAT WAS PROVIDED TO YOU ORALLY BY OTHER AGENTS OR WAS IT INFORMATION CONTAINED IN INVESTIGATIVE REPORTS?

A IT WAS NOTHING THAT WAS EVER DIRECTLY RELAYED TO ME, ONLY BY AGENTS. IN FACT, I DO NOT KNOW THE IDENTITY OF THE INFORMANT UP THERE.

Q I DON'T EXPECT YOU TO GIVE ME THAT, BUT WHAT I AM INTERESTED IN IS THE QUALITY OF THE INFORMATION FROM THIS INFORMANT THAT YOU JUST TESTIFIED TO IN COURT TODAY.

WHEN YOU SAY YOU DIDN'T GET INFORMATION DIRECTLY ABOUT WHAT THE INFORMANT SAID, I DON'T UNDERSTAND WHAT YOU ARE SAYING.

A WHAT I AM TELLING YOU IS THAT I DID NOT TALK TO ANY SOURCE OF INFORMATION, A SERIES OF INFORMANTS OR SOURCE OF INFORMATION UP THERE.

THAT IS THE LOS ANGELES INVESTIGATION. I HAVE NO DIRECT CONTACT WITH THEM.

Q HOW DO YOU KNOW THE INFORMANT EVEN EXISTS?

A FROM CONVERSATIONS WITH INTINARELLI AND GREENBERG, ET CETERA.

Q WHEN YOU SAY ET CETERA, ARE YOU TALKING --

A REPORTS, DOCUMENTS.

Q DID THIS INFORMANT FURNISH SPECIFIC INFORMATION THAT THE MONEY THAT WAS SHIPPED DOWN IN THE FREEZER -- AND I AM TALKING NOW ABOUT THE $2 MILLION THAT WAS SHIPPED DOWN IN THE FREEZER THAT WAS INTERCEPTED BY

UNITED STATES CUSTOMS SERVICE IN MARCH OF '86 -- CAME FROM MR. ROCA?

A THAT PARTICULAR SHIPMENT I AM NOT CERTAIN WHETHER THAT -- A PARTICULAR INFORMANT OR THAT PARTICULAR INFORMANT PROVIDED DIRECT INFORMATION.

BUT THEY DO HAVE AN INFORMANT UP IN LOS ANGELES, AND THAT IS ONE OF THE THINGS THEIR CASE IS BASED ON.

Q EXCUSE ME, I DON'T MEAN TO INTERRUPT YOU, BUT PERHAPS YOU CAN ANSWER MY QUESTIONS WITHOUT VOLUNTEERING ANY INFORMATION.

WOULD YOUR ANSWER BE THE SAME WITH RESPECT TO THE SEIZURES IN APRIL OF 1986 OF THE STEREO SPEAKERS AND THE VACCUUM CLEANERS; THAT IS, THAT THE INFORMANT THAT YOU HAVE BE BEEN TOLD EXISTS UP IN LOS ANGELES DIDN'T PROVIDE ANY SPECIFIC INFORMATION THAT THAT MONEY WAS CONNECTED TO MY CLIENT, MR. ROCA?

A THAT PARTICULAR SEIZURE, I DO NOT KNOW.

Q WOULD YOUR ANSWER BE THE SAME WITH RESPECT TO THE $879,000 THAT WAS SEIZED FROM MR. AMELIO DIAZ ABOUT TWO YEARS AGO?

A YES.

Q LET'S MOVE ON TO THE SEIZURE FROM ROBERTO ORTIZ.

INCIDENTLY, YOU MAY HAVE MISSPOKE YOURSELF ON DIRECT EXAMINATION. I THINK YOU TESTIFIED ON DIRECT EXAMINATION THAT THE AMOUNT THAT WAS SEIZED FROM ROBERTO ORTIZ WAS $1.5 MILLION. THE CORRECT AMOUNT IS $1.15 MILLION; ISN'T THAT RIGHT?

A I BELIEVE THAT IS CORRECT, YES.

Q AND YOU TESTIFIED ON DIRECT EXAMINATION THAT YOU BELIEVED, IF I UNDERSTOOD YOU PROPERLY, THAT YOU BELIEVED THAT ROBERTOORTIZ IDENTIFIED MR. ROCA AS THE INTENDED RECIPIENT OF THIS MONEY.

IS THAT YOUR TESTIMONY?

A MY TESTIMONY IS THAT HE WAS INTERCEPTED WITH THIS MONEY AND WHEN ASKED WHAT HIS

DESTINATION WAS, HE POINTED OUT THE HOTEL ROOM, IN THE OMNI(PH.) HOTEL, I BELIEVE, AND AGENTS PROCEEDED TO THAT LOCATION. AND AT THAT LOCATION CAME INTO CONTACT WITH MR. ROCA.

Q NOW, YOUR INFORMATION IS BASED ON INFORMATION THAT YOU RECEIVED FROM CUSTOMS AGENTS BY THE NAME OF -- U.S. CUSTOMS AGENTS BACK IN MIAMI, OR IS THIS SECOND-HAND INFORMATION YOU ARE GETTING?

A IT IS BASED ON A REPORT.

Q A REPORT. OKAY. SO THE REPORT DOESN't INDICATE THAT ROBERTO ORTIZ EVER SAID THAT THE MONEY BELONGED TO MR. ROCA; ISN'T THAT RIGHT?

A I DON'T RECALL IT SPECIFICALLY, NO.

Q THE FACTS OF THE CASE ARE, APPARENTLY, THAT ORTIZ WAS INTERCEPTED WITH THIS MONEY, CORRECT?

A THAT IS WHAT I UNDERSTAND, YES.

Q FROM WHAT YOU UNDERSTAND, WHETHER IT IS TRUE OR NOT.

THAT THEY ASKED HIM WHERE HE WAS GOING, RIGHT?

A THAT IS CORRECT.

Q AND THAT HE POINTED OUT A HOTEL ROOM, RIGHT?

A YES.

Q AND THEY WENT INTO THE HOTEL ROOM AND THEY FOUND MR. ROCA; IS THAT RIGHT?

A MR. ROCA ALONG WITH ADDITIONAL MONIES.

Q WHICH WAS RETURNED TO HIM, RIGHT?

A THAT I DO NOT KNOW, WHAT THE FOLLOW-UP WAS.

Q BUT YOU DO KNOW THAT MR. ROCA WAS NEVER CHARGED IN ANY CRIMINAL CASE IN CONNECTION WITH THE SEIZURE OF THIS MONEY; ISN'T THAT RIGHT?

A YEAH. I DON'T BELIEVE SO, NO.

Q DO YOU HAVE ANY QUESTION AS TO WHETHER HE WAS CHARGED OR NOT?

A NO.

Q HE WAS NOT CHARGED?

A NO.

Q NOW LET'S MOVE ON TO THE LA RAMADA LAB PROSECUTION DOWN IN BOLIVIA.

FIRST OF ALL LET ME ASK YOU, DO YOU SPEAK SPANISH, SIR?

A TO SOME DEGREE. I AM NOT COMPLETELY FLUENT.

Q YOU HAVE A DAY-TO-DAY WORKING KNOWLEDGE?

A YES.

Q YOU CAN ORDER FOOD FOR YOURSELF?

A THATIS CORRECT.

Q YOU HAVE NEVER BEEN STATIONED IN BOLIVIA, HAVE YOU?

A NO, I HAVE NOT.

Q IS IT FAIR TO SAY THAT YOU DON'T HAVE ANY PARTICULAR EXPERTISE IN THE WORKINGS OF THE BOLIVIAN COURT SYSTEM; ISN'T THAT RIGHT?

A NO, I DO NOT.

Q NOW, APPARENTLY YOU RECEIVED SOME TRANSLATIONS OR WHAT PURPORT TO BE TRANSLATIONS OF COURT DOCUMENTS FROM BOLIVIA, RIGHT? WHICH YOU ATTACHED TO YOUR DECLARATION.

A I DID.

Q WHEN DID YOU GET THOSE TRANSLATIONS?

A JUST RECENTLY. ABOUT, I GUESS, THREE MONTHS AGO.

Q WERE THOSE TRANSLATIONS ACCOMPANIED BY THE ORIGINAL SPANISH DOCUMENTS?

A WE HAD THE ORIGINAL SPANISH DOCUMENTS THAT WERE AUTHENTICATED THROUGH THE U.S. EMBASSY AND THROUGH THE SUPREME COURT IN SUCRE, WHIS IS THE CAPITOL.

ANDTHOSE DOCUMENTS HAD BEEN TO BE AUTHENTICATED THROUGH THE U.S. EMBASSY.

THEN WHEN I RECEIVED THEM FROM THAT POINT WE HAD THEM TRANSLATED HERE IN SAN DIEGO.

Q OKAY. LET ME ASK THE QUESTION DIRECTLY.

ARE THERE COPIES OF THE SPANISH ORIGINALS OR COPIES OF THE UNDERLYING SPANISH DOCUMENTS HERE IN THE UNITED STATES?

A I HAVE THOSE.

Q YOU DO?

A THEY ARE IN EVIDENCE, YES.

Q WHEN YOU SAY THEY ARE IN EVIDENCE, THEY WEREN'T ATTACHED TO YOUR DECLARATION, WERE THEY?

A NO, THEY WERE NOT.

Q WHAT DO YOU MEAN THEY ARE "IN EVIDENCE"?

A I MEAN THAT I HAVE THOSE DOCUMENTS AND I HAVE PLACED THEM IN PROTECTIVE -- WE HAVE THEM IN OUR PROPERTY ROOM.

Q AS FAR AS YOU KNOW, COPIES HAVE NEVER BEEN DISCLOSED TO THE DEFENSE; ISN'T THAT RIGHT?

A IF WE ARE TALKING ABOUT IN EVIDENCE IN COURT TODAY, NO.

Q HOW ABOUT BEFORE COURT TODAY?

A NO.

Q LET'S TRY TO RECONSTRUCT --

THE COURT: DO YOU WANT TO SEE THOSE, COUNSEL? I WILL MAKE AN ORDER THAT THEY PRODUCE THEM FOR YOU.

MR. ABZUG: I WOULD LIKE TO SEE THEM, YES.

THE COURT: I WILL MAKE AN ORDER TO TURN THEM OVER, PLEASE, MS. MEZA.

MR. ABZUG: THANK YOU, YOUR HONOR.

MS. MEZA: YES.

BY MR. ABZUG:

Q LET'S SEE IF WE CAN AGREE UPON WHAT HAPPENED DOWN IN BOLIVIA.

YOU AGREE, DO YOU NOT, THAT ON OCTOBER 16TH, 1988, A WARRANT WAS ISSUED FOR MR. ROCA'S ARREST IN CONNECTION WITH THE LA RAMADA PROSECUTION; IS THAT RIGHT?

A THAT IS CORRECT.

Q AND THAT WARRANT IS ATTACHED AS AN EXHIBIT TO YOUR DECLARATION, CORRECT?

A THAT IS CORRECT.

Q AS PART OF EXHIBIT 1.

THEN SUBSEQUENTLY -- LET ME BACKTRACK.

AS FAR AS YOU KNOW, THAT WARRANT WAS ISSUED BASED ON THE STATEMENTS GIVEN BY TWO PEOPLE THAT WERE ACTUALLY ON THE PREMISES OF LA RAMADA COCAINE LABORATORY AT THE TIME

THAT IT WAS FOUND; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q MR. ROCA CERTAINLY WASN'T THERE AT ANY TIME, AS FAR AS YOU KNOW; ISN'T THAT RIGHT?

A AS FAR AS HIM BEING THERE AT ANY TIME? I DO NOT KNOW.

Q THEN WHAT HAPPENED IS THESE WITNESSES SUBSEQUENTLY RECANTED THEIR STATEMENTS UNDER OATH, CORRECT?

A THAT IS CORRECT -- I DON'T KNOW IF IT IS UNDER OATH.

Q HAVE YOU REVIEWED THE VARIOUS EXHIBITS THAT HAVE BEEN -- THAT WERE FILED WITH THE COURT IN CONNECTION WITH THE DEFENSE BAIL MOTION?

A YES, I HAVE.

Q ISN'T IT TRUE THAT IT IS EXHIBIT R, OR DO YOU REMEMBER AS EXHIBIT R ARE TRANSLATED COPIES OF THESE WITNESSES' RECANTATIONS UNDER OATH?

A THEY DEFINITELY RECANTED THEIR STATEMENTS, YES.

Q THEN WHAT HAPPENED IS THE CHARGES WERE, AS YOU SAID ON YOUR DIRECT EXAMINATION, REINSTATED, RIGHT?

A THAT IS CORRECT.

Q AND A WARRANT WAS ISSUED AGAIN FOR MR. ROCA'S ARREST ON JANUARY 16TH, 1989, CORRECT?

A YES. IN TRINIDAD, THAT IS CORRECT.

Q NOW, DO YOU HAVE OR HAVE YOU RECEIVED ANY OTHER DOCUMENTATION FROM BOLIVIA REFLECTING ANY COURT ACTION ON THE LA RAMADA CASE SINCE JANUARY 16TH, 1989?

A NO, I DID NOT.

Q SO AS FAR AS YOU KNOW, THE LAST ACTION THAT WAS TAKEN WAS ON JANUARY 16TH, 1989 WHEN THE WARRANT WAS REISSUED, RIGHT?

A THAT IS CORRECT.

Q NOW, LET ME DIRECT YOUR ATTENTION TO THE AUTHENTICATION THAT YOU ATTACHED AS AN EXHIBIT TO YOUR DECLARATION. THIS IS THE

AUTHENTICATION BY THE SECRETARY OF THE SUPREME COURT. DO YOU KNOW WHAT I AM TALKING ABOUT?

A YES, I DO.

Q THIS AUTHENTICATION WAS ISSUED ON MARCH 12TH, 1990, CORRECT?

A SOUNDS CORRECT. I HAVE TO SEE IT IN FRONT OF ME, BUT THAT SOUNDS CORRECT.

Q I WON'T TRY TO TRICK YOU. YOU CAN TAKE MY WORD FOR IT.

DO YOU AGREE WITH ME THAT THE SECRETARY OF THE SUPREME COURT IS A CLERICAL FIGURE, IT IS NOT A JUDICIAL OFFICER; ISN'T THAT RIGHT?

A THE SECRETARY OF THE SUPREME COURT WOULD BE SOMEONE WHO WOULD BE AUTHENTICATING DOCUMENTS, AND THAT WOULD HAVE BEEN IN SUCRE, WHICH IS THE CAPITOL. YES, THAT IS CORRECT.

Q SO THE AUTHENTICATION YOU ATTACHED AS AN EXHIBIT TO YOUR DECLARATION SIMPLY STATES THAT THE COPY OF THE WARRANT THAT YOU

SUBMITTED TO THE COURT THAT WAS ISSUED ON JANUARY 16TH, 1989 IS A TRUE AND CORRECT COPY; ISN'T THAT THE PURPOSE OF THE AUTHENTICATION?

A EXACTLY, AUTHENTICATE DOCUMENTS.

Q IT IS NOT A STATEMENT IN MARCH OF -- IT IS NOT A STATEMENT THAT THE WARRANT IS STILL ACTIVE AS OF MARCH 12TH, 1990, IS IT? IT IS SIMPLY AN AUTHENTICATION OF THE DOCUMENT?

A THAT IS CORRECT.

Q LET'S MOVE ON TO THE DEFENSE DOCUMENTATION THAT WE PRESENTED TO THE COURT.

MS. MEZA ASKED YOU CERTAIN QUESTIONS ABOUT BOLIVIAN GEOGRAPHY IN AN EFFORT TO TRY TO DETERMINE THE RELEVANCY OF DOCUMENTS WHICH WE SUBMITTED TO THE COURT FROM THE SANTA CRUZ -- FROM SANTA CRUZ.

DO YOU KNOW WHAT I AM TALKING ABOUT?

A YES, I DO.

Q NOW, DO YOU AGREE WITH ME THAT THOSE CERTIFICATIONS ARE CERTIFICATIONS THAT THERE ARE NO CHARGES PENDING AGAINST MR. ROCA IN THE SANTA CRUZ JUDICIAL DISTRICT. ISN'T THAT WHAT THEY SAY?

A I DON'T KNOW ABOUT THE JUDICIAL DISTRICT. WHAT THAT REFLECTS THERE, THE PAPER YOU HAVE REFLECTS THERE ARE NO CHARGES IN SANTA CRUZ, THAT IS CORRECT.

MR. ABZUG: YOUR HONOR, MAY I APPROACH THE WITNESS FOR A MOMENT?

THE COURT: YES, SIR.

MR. ABZUG: THESE HAVE BEEN FILED INTO EVIDENCE BEFORE THE COURT, YOUR HONOR, THE DOCUMENTS THAT I AM GOING TO SHOW THE WITNESS.

BY MR. ABZUG:

Q I AM SHOWING YOU COPIES OF TWO DOCUMENTS THAT HAVE BEEN FILED BEFORE THE COURT UNDER EXHIBIT D TO OUR RESPONSE.

THESE ARE CERTIFICATIONS FROM THE FIRST NARCOTICS COURT OF THE JUDICIAL DISTRICT OF

SANTA CRUZ AND THE SECOND NARCOTICS COURT OF THE JUDICIAL DISTRICT OF SANTA CRUZ.

I WANT YOU TO QUICKLY REVIEW THESE AND TELL ME IF IT APPEARS THAT WHAT THESE ARE ARE CERTIFICATIONS ABOUT WHETHER CHARGES EXIST OR NOT IN THE JUDICIAL DISTRICT OF SANTA CRUZ.

A (WITNESS COMPLIES.)

THIS INDICATES THAT IN THE JUDICIAL DISTRICT OF SANTA CRUZ, THAT AS OF JANUARY 10TH, 1991 THAT THERE ARE NO CHARGES IN THE PARTICULAR JUDICAL DISTRICT OF SANTA CRUZ IN BOLIVIA.

Q NOW, DO YOU KNOW, SIR, THE BOUNDARIES OF THE SANTA CRUZ JUDICIAL DISTRICT?

A NO, I DO NOT.

Q AS FAR AS YOU KNOW, IT COULD BE LIKE THE SOUTHERN DISTRICT OF CALIFORNIA; THAT IS, A JUDICIAL DISTRICT THAT ENCOMPASSES MANY CITIES, CORRECT?

A THAT IS POSSIBLE. I DO NOT KNOW.

Q IN ANY EVENT, DID YOU REVIEW THE DOCUMENTATION SUBMITTED AS PART OF EXHIBIT D SHOWING THAT ALL CHARGES IN THE LA RAMADA CASE WERE DISMISSED AS OF APRIL 15TH, 1989? ARE YOU AWARE THAT THAT DOCUMENTATION EXISTS?

A ALL CASES IN LA RAMADA HAVE BEEN --

Q ARE YOU AWARE, SIR, THAT THE DEFENSE SUBMITTED A DOCUMENT, CERTIFIED WITH ENGLISH AND SPANISH, THAT INDICATES THAT AS OF APRIL 15TH, 1989 THE LA RAMADA CASE WAS DISMISSED AGAINST MR. ROCA?

A YES, I AM AWARE OF THAT DOCUMENTATION.

Q LET'S GO ON TO THE MEETING THAT OCCURRED DOWN IN BOLIVIA ON DECEMBER 15TH, 1987. AND YOU WERE DISCUSSING THE TESTIMONY OF MR. WHEELER, CORRECT?

A THAT IS CORRECT.

Q THIS TESTIMONY WAS GIVEN TWO YEARS AFTER THE EVENT, WAS IT NOT?

A THAT SOUNDS CORRECT, YES.

Q AND DURING THAT PERIOD OF TIME FROM 1987 TO 1989, MR. WHEELER CONTINUED TO CO-OPERATE WITH THE DRUG ENFORCEMENT ADMINISTRATION; ISN'T THAT RIGHT?

A THAT IS CORRECT.

Q HE WAS AN ACTIVE INFORMANT. HE IS TODAY, AS A MATTER OF FACT, RIGHT?

A MORE SPECIFICALLY WITH U.S. CUSTOMS.

Q WELL, WITH THE U.S. GOVERNMENT.

A RIGHT.

Q HE WAS AVAILABLE TO THE GOVERNMENT DURING THAT ENTIRE PERIOD OF TIME FROM DECEMBER 15TH, 1987 UNTIL HE TESTIFIED IN COURT IN 1989, RIGHT?

A AS I UNDERSTAND IT, YES.

Q WHEN WAS THE FIRST TIME, IF YOU KNOW, THAT MR. WHEELER TOLD ANY OFFICIAL OF THE UNITED STATES CUSTOMS SERVICE THAT HE THOUGHT MR. ROCA WAS PRESENT AT THE DECEMBER 15TH, 1987 MEETING?

A WHEN DID HE FIRST TELL THEM? I DO NOT KNOW WHEN HE FIRST TOLD THEM, I WAS NOT INVOLVED IN THE FIRST CASE.

Q SO AS FAR AS YOU KNOW, IT MIGHT HAVE BEEN TWO YEARS BEFORE YOU FIRST MADE THE IDENTIFICATION OF MR. ROCA AS BEING DOWN THERE; IS THAT RIGHT?

MS. MEZA: OBJECTION. CALLS FOR SPECULATION. HE SAYS HE DOES NOT KNOW.

THE COURT: HE CAN CALL FOR THAT BY ASKING IF THE DOCUMENT REFLECTS THAT. OVERRULED.

THE WITNESS: IT COULD HAVE BEEN INITIALLY, IT COULD HAVE BEEN LATER. WHAT I REVIEWED INDICATING THAT INFORMATION WAS A COURT DOCUMENT.

BY MR. ABZUG:

Q TESTIMONY?

A THAT IS RIGHT.

Q TRANSCRIPTS OF TESTIMONY?

A THAT IS RIGHT.

Q DO YOU AGREE WITH ME THAT IN THE TESTIMONY MR. WHEELER GAVE BEFORE JUDGE ENRIGHT IN 1989, MR. WHEELER NEVER DID SAY THAT DURING THE MEETINGS JORGE ROCA'S NAME WAS EVERE MENTIONED IN ANY CONNECTION?

A HE DID NOT SAY HIS NAME WAS MENTIONED EVER, NO.

Q AS A MATTER OF FACT, THEY NEVER EVEN MENTIONED THE NICKNAME, TECHO DA PAJA, IS THAT RIGHT? ACCORDING TO MR. WHEELER.

A AS I UNDERSTAND IT, HE WAS NEVER IDENTIFIED AT THAT MEETING.

Q HE ALSO TESTIFIED THAT WHEN HE DID SEE THIS MAN, THAT THE MAN WAS WEARING SUNGLASSES, RIGHT? REMEMBER THAT TESTIMONY?

A I DON'T REMEMBER SPECIFIC ATTIRE. WHETHER HE HAD SUNGLASSES ON I DON'T REMEMBER.

Q DO YOU REMEMBER WHEELER TESTIFYING THAT HE ONLY SAW THE MAN FOR THREE OR FOUR MINUTES?

A YES, I DO REMEMBER THAT, FOUR- TO FIVE-MINUTE TIME FRAME.

Q SO IT WAS A BRIEF ENCOUNTER, CORRECT?

A BRIEF ENCOUNTER, GOT IN THE PLANE AND DEPARTED.

Q AND WHEELER NEVER DESCRIBED A SINGLE WORK THAT THIS INDIVIDUAL MAY HAVE SAID AT THIS MEETING; ISN'T THAT RIGHT?

A HE DESCRIBED ONLY A GREETING, AS I RECALL, MR. ROCA GREETING HIM. AND THEN HE ALSO MENTIONS THAT EVERYONE THERE DEFERRED TO MR. ROCA.

Q WELL, THAT WAS HIS OPINION.

MY QUESTION TO YOU WAS, DID HE EVER TESTIFY ABOUT A SINGLE WORD OF CONVERSATION BETWEEN THE MAN THAT HE IDENTIFIED AS MR. ROCA AND ANYONE ELSE THAT WAS THERE?

A SOMETHING TO THE EFFECT, "PLEASED TO MEET YOU." THAT IS THE ONLY THING I REMEMBER.

Q THEN HE IDENTIFIED MR. ROCA FROM TWO BLACK AND WHITE PHOTOS SHOWN TO HIM TWO YEARS

AFTER THE MEETING; ISN'T THAT CORRECT?

A THAT IS CORRECT.

Q NOW, LET'S MOVE ON TO EFREN MENDEZ-DUENAS.

MR. ABZUG: YOUR HONOR, AT THIS POINT I WOULD LIKE TO MAKE AN ORAL PROFFER BY PUTTING IT ON THE RECORD IN CAMERA TO THE COURT REGARDING THIS PARTICULAR WITNESS.

THE COURT: YOU MAY DO SO.

MR. ABZUG: MAY I APPROACH?

THE COURT: YES.

(BENCH CONFERENCE BETWEEN THE COURT AND DEFENSE COUNSEL, REPORTED BY NOT TRANSCRIBED AT THIS TIME.)

(WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT.)

BY MR. ABZUG:

Q NOW, YOUR TESTIMONY REGARDING THE STATEMENTS MADE BY EFREN MENDEZ-DUENAS IS BASED UPON A POST-ARREST STATEMENT WHICH HE GAVE TO DRUG ENFORCEMENT ADMINISTRATION; ISN'T THAT RIGHT?

A DRUG ENFORCEMENT AND TO CUSTOMS, YES.

Q AND ACCORDING TO YOU HE -- IN THE COURSE OF THAT INTERVIEW HE SAID THAT TECHO DE PAJA, MEANING MY CLIENT, IS A, QUOTE, BIG COKE DEALER, RIGHT?

A YES, THAT IS CORRECT.

Q NOW, HIS STATEMENT WAS TAPE RECORDED, WASN'T IT?

A YES, THAT IS CORRECT.

A I DON'T KNOW IF IT WAS TAPE RECORDED OR NOT. I BELIEVE SO.

Q ARE YOU SURPRISED TO LEARN THAT IT WAS TAPE RECORDED, AND THE TRANSCRIPT OF HIS CONVERATION WITH THE DRUG ENFORCEMENT ADMINISTRATION HAS BEEN FILED WITH THIS COURT AS AN EXHIBIT?

A OF COURSE, NOT.

Q YOU ARE NOT AWARE OF THAT?

A I DIDN'T SAY I WASN'T AWARE OF IT, I WOULDN'T BE SURPRISED ABOUT THAT, NO.

Q LET ME ASK YOU, THEN, IF YOU ARE AWARE THAT ACCORDING TO THE TRANSCRIPT OF THE TAPE-RECORDED CONVERSATON THAT MENDEZ-DENAS HAD WITH THE LAW ENFORCEMENT OFFICERS AFTER HIS ARREST, HE SAID THAT THE ONLY THING HE KNEW ABOUT GEORGE ROCA AND TECHO DE PAJA WAS HEARSAY.

ARE YOU AWARE OF THAT?

A I DON'T RECALL ANYONE SAYING THAT IT WAS HEARSAY OR HEARSAY BEING MENTIONED.

Q WOULD IT REFRESH YOUR RECOLLECTION AS TO WHAT HE TOLD THE DRUG ENFORCEMENT ADMINISTRATION IF I WERE TO SHOW YOU A TRANSCRIPT OF HIS CONVERSATION?

A. I REMEMBER THE TRANSCRIPT. HE IDENTIFIED TECHO DE PAJA AS A MAJOR COCAINE TRAFFICKER IN BOLIVIA.

Q BUT DO YOU CONCEDE WHAT HE THEN TOLD THE DRUG ENFORCEMENT ADMINISTRATION WAS THAT THE BASIS OF THAT STATEMENT WAS ONLY HEARSAY, THAT EVERYTHING HE KNEW ABOUT HIM WAS ONLY

HEARSAY?

A HEARSAY IS A CONCLUSION THAT YOU ARE MAKING.

Q NO, I AM SAYING THAT IS HIS WORDS. DIDN'T HE SAY THAT?

A DID HE SAY HEARSAY? I DON'T REMEMBER HEARSAY --

MR. ABZUG: YOUR HONOR, MAY I REFRESH THE WITNESS'S RECOLLECTION?

THE COURT: YES.

MR. ABZUG: YOUR HONOR, I PROPOSE TO REFRESH HIS RECOLLECTION WITH A COPY OF EXHIBIT N FILED WITH THIS COURT, PAGES 1615 THROUGH 1616,

WITH THE COURT'S PERMISSION, MAY I JUST READ THE RELEVANT PORTION INTO THE RECORD TO REFRESH HIS RECOLLECTION?

THE COURT: GO AHEAD.

BY MR. ABZUG:

Q THE DRUG ENFORCEMENT ADMINISTRATION AGENT SAYS, "YOU HAVE TO TALK DIRECTLY TO

TECHO DE PAJA."

AND THEN MR. MENDEZ-DUENAS SAYS, "WELL, VERY RELATIVE THAT I CAN TALK TO HIM, BUT, YES, I CAN DO IT."

AND THEN THERE IS SOME INAUDIBLE STATEMENT BY THE DRUG ENFORCEMENT ADMINISTRATION.

THEN MR. MENDEZ-DUENAS SAYS, "I KNOW THAT TECHO DE PAJA HAS BOUGHT BOLIVIAN, INAUDIBLE, BUT ONLY HEARSAY. I DON'T KNOW FOR SURE."

THEN THE AGENT SAYS, "YOU DON'T KNOW FOR SURE?"

AND EFREN MENDEZ-DUENAS SAYS, "NO."

DOES THAT REFRESH YOUR RECOLLECTION AS TO WHETHER MR. MENDEZ-DUENAS CLAIMED THAT THE BASIS OF HIS KNOWLEDGE REGARDING TECHO DE PAJA WAS HEARSAY?

A YES. I DID NOT RECALL AT ALL SEEING THE WORD HEARSAY THERE.

Q DID I READ IT CORRECTLY?

A YES, OF COURSE.

Q ISN'T IT ALSO TRUE THAT IN THE COURSE OF THAT INTERVIEW MR. MENDEZ-DUENAS SPECIFICALLY SAID THAT HE ASKED TECHO DE PAJA TO PARTICIPATE IN THEIR CONSPIRACY BUT HE REFUSED, THAT IS TECHO DE PAJA REFUSED?

A I DO NOT RECALL THAT PART OF THAT.

Q WILL YOU ACCEPT MY REPRESENTATION THAT IS WHAT HAPPENED. THAT IS WHAT HE SAID?

A I WILL ACCEPT IT AS YOUR REPRESENTATION, YES.

Q DO YOU ALSO RECALL THAT WHEN ASKED ABOUT THE DECEMBER 15TH, 1987 MEETING THAT MR. MENDEZ-DUENAS SAID THAT THE OWNER OF THE MERCHANDISE WAS INSTON RODRIGUEZ?

A THAT THE OWNER OF THE 5,000 KILOGRAMS WAS WINSTON RODRIGUEZ?

Q THAT THE OWNER OF THE MERCHANDISE THAT WAS GOING TO BE DISCUSSED AT THE DECEMBER 15TH, 1987 MEETING WAS WINSTON RODRIGUEZ? DO YOU REMEMBER THAT?

A DO I REMEMBER IT? NO, I DON'T.

Q LET ME CONCLUDE WITH SOME QUESTIONS ABOUT YOUR TESTIMONY REGARDING MY CLIENT'S REPUTATION.

YOUR TESTIMONY IS BASED UPON, AGAIN, INFORMATION THAT YOU RECEIVED FROM THE SANTA CRUZ OFFICE; ISN'T THAT RIGHT?

A SANTA CRUZ, LA PAZ, COCHABAMBA, YES.

Q WELL, THEN LET ME BROADEN THE QUESTION.

YOUR INFORMATION ABOUT MY CLIENT'S REPUTATION IS BASED UPON INFORMATION YOU RECEIVED FROM UNITED STATES LAW ENFORCEMENT OFFICIALS IN BOLIVIA; ISN'THAT RIGHT?

A THAT IS CORRECT.

Q ISN'T IT A FACT, FIRST OF ALL, THAT MR. ROCA HAS NEVER BEEN CONVICTED OF ANY-THING IN BOLIVIA; ISN'T THAT RIGHT?

A NOT THAT I KNOW OF.

Q AND IN THESE CONVERSATIONS, ARE THESE JUST CONVERSATIONS YOU ARE HAVING AROUND THE OFFICE OVER COFFEE, OR HOW IS HIS REPUTATION DISCUSSED?

A WELL, IT IS THE TOPIC OF MANY, MANY REPORTS, SOME CONFIDENTIAL, SOME NOT. HE HAS BEEN IDENTIFIED AS ONE OF THE TOP TRAFFICKERS IN BOLIVIA BY OUR ORGANIZATION.

Q BY YOUR ORGANIZATION?

A THAT IS CORRECT.

Q DO YOU KNOW WHETHER ANY TAPE RECORDED -- ANY TAPE RECORDINGS EXIST WHICH CONTAIN ANY DAMAGING OR INCRIMINATING ADMISSIONS BY MR. ROCA, AT ALL?

A DO I KNOW OF THE EXISTENCE OF ANY OF THOSE?

Q YES.

A NO, I DO NOT.

Q DO YOU KNOW OF ANY TAPE RECORDINGS WHICH EXIST IN WHICH ANY DRUG TRAFFICKERS AT ALL EVER DISCUSSED THE FACT THAT THEY ARE WORKING FOR EITHER GEORGE ROCA OR TECHO DE PAJA?

A DO I HAVE ANY TAPE RECORDINGS? NO, I DO NOT.

Q DO YOU KNOW WHETHER ANY NARCOTICS HAVE EVER BEEN SEIZED FROM EITHER MR. ROCA PERSONALLY OR ANY HOME OR BUSINESS THAT IS OWNED BY MR. ROCA?

A DO I KNOW THAT PERSONALLY? NO, I DO NOT.

MR. ABZUG: I HAVE NO FURTHER QUESTIONS. THANK YOU.

THE COURT: THANK YOU.

MS. MEZA

MS. MEZA: THANK YOU, YOUR HONOR.

REDIRECT EXAMINATION

BY MS. MEZA:

Q AGENT SKAGGS, DO YOU KNOW IF EFREN MENDEZ-DUENAS, WHO WAS CONVICTED IN SAN DIEGO AND IS CURRENTLY SERVING ABOUT 30 YEARS IN PRISON, IF HE SAID AFTER HE WAS ARRESTED THAT HE KNEW THE DEFENDANT?

A THAT HE KNEW THE DEFENDANT?

Q YES.

A THAT HE KNEW OF HIM AND IDENTIFIED HIM AS TECHO DE PAJA, AS A MAJOR BOLIVIAN DRUG TRAFFICKER.

Q I'D LIKE TO SHOW YOU A PORTION OF THE TRANSCRIPT.

(TRANSCRIPT IS SHOWN TO DEFENSE COUNSEL.)

AGENT SKAGGS, I DIRECT YOUR ATTENTION TO A TRANSCRIPT OF HIS POST-ARREST STATEMENT AND ASK YOU TO READ THE QUESTION THAT WAS ASKED AND THE -- ACTUALLY TO READ EFREN MENDEZ'S RESPONSE TO A QUESTION REGARDING PRODUCERS OF COCAINE.

A "I DON'T KNOW A GREAT NUMBER OF PRODUCERS. I KNOW THREE OR FOUR PRODUCERS. BUT WE COULD, WELL, SEE WHAT WE COULD DO, BECAUSE ONLY ON THE MARCH COULD WE, GIVE ME THE NAMES, VICTOR ANGEL BACA, MICKEY ARREDONDO, AND TECHO DE PAJA."

Q AND TECHO DE PAJA IS THE NICKNAME OF THAT DEFENDANT; IS THAT CORRECT?

A THAT IS CORRECT.

Q SO EFREN MENDEZ IDENTIFIED HIM AS A PRODUCER OF COCAINE?

A THAT IS CORRECT.

Q SIR, I WOULD ALSO LIKE TO ASK YOU IF YOU HAVE INFORMATION REGARDING THE STATUS OF THE CRIMINAL CASE AGAINST THE DEFENDANT IN BOLIVIA?

A INFORMATION FROM OUR OFFICE FROM THE DRUG ENFORCEMENT ADMINISTRATION IN BOLIVIA IS THAT WARRANTS ARE STILL OUTSTANDING FOR JORGE ROCA-SUAREZ IN BOLIVIA.

Q SIR, YOU ALSO HAVE INFORMATION THAT THE FIRST CRIMINAL ACTION WAS DISMISSED AGAINST THE DEFENDANT; IS THAT CORRECT?

A THAT IS CORRECT.

Q AND SUBSEQUENT TO THAT DISMISSAL, THERE WAS AN INVESTIGATION REGARDING THE CIRCUM-STANCES OF THAT DISMISSAL?

A THERE MOST CERTAINLY WAS, YES.

Q AND HAVE INDIVIDUALS BEEN CHARGED IN CONNECTION WITH THE DISMISSAL OF THAT ACTION?

A TWO JUDGES AND A PROSECUTOR, YES.

Q AND WHAT HAVE THEY BEEN CHARGED WITH?

A I DON'T REMEMBER THE EXACT CHARGE, BUT WHAT IT AMOUNTS TO IS THAT -- INCORRECT ACTIONS IN DISMISSAL OF THOSE CHARGES.

Q IN OTHER WORDS, THAT THE DEFENDANT PAID THEM OFF TO DISMISS THE CASE; IS THAT CORRECT?

MR. ABZUG: OBJECTION. LEADING.

THE COURT: I DON'T HAVE A CLEAR ANSWER FIRST TO WHAT THEY ARE CHARGED WITH. NOW, WHETHER THEY WERE PAID OFF OR NOT, I DON'T THINK THAT IS PART OF THE RECORD, IS IT?

BY MS. MEZA:

Q WELL, AGENT SKAGGS, THEY WERE CHARGED WITH PREVARICATION?

A PREVARICATION.

Q WHICH WAS EVADING THE TRUTH?

A EVANDING THE TRUTH, YES.

Q AND SUBSEQUENT TO THAT DISMISSAL, THE CHARGES HAVE BEEN REINSTATED?

A THAT IS CORRECT.

Q AND WITH REGARD TO THE CASH SEIZURES, YOU WERE NOT ABLE TO IDENTIFY THE EXACT SEIZURES THAT OCCURRED AND WHETHER OR NOT AN INFORMANT HAS LINKED THE DEFENDANT DIRECTLY TO THAT SEIZURE; IS THAT CORRECT?

A THAT IS CORRECT.

Q BUT THOSE SEIZURES ARE THE SUBJECT OF THE PROSECUTION IN LOS ANGELES;IS THAT CORRECT?

A THEY CERTAINLY ARE, YES.

QAND THE DEFENDANT IS THE LEAD DEFENDANT IN THAT CASE AS WELL?

A YES, HE IS.

MS. MEZA: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

MR. ABZUG: JUST A FEW QUESTIONS, YOUR HONOR.

BY MR. ABZUG:

Q HAVE YOU REQUESTED ANY DOCUMENTATION FROM BOLIVIA WHICH PROVES THAT THERE ARE PENDING CHARGES AGAINST MR. ROCA AT THE PRESENT TIME?

A I HAVE REQUESTED NO CURRENT DOCUMENTATION.

THE LAST DOCUMENTATION I HAVE IS WHAT I HAVE, AND IT IS OUT OF THE COURT OF TRINIDAD AND OUT OF SUCRE, THE CAPITOL.

Q AND THAT IS A WARRANT THAT WAS ISSUED OVER TWO AND A HALF YEARS AGO, RIGHT?

A YES, THAT IS CORRECT.

MR. ABZUG: THANK YOU.

THE COURT: ANYTHING ELSE?

MS. MEZA: NO, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH, SIR. DO YOU HAVE ANY OTHER WITNESSES?

MS. MEZA: NO OTHER WITNESSES, YOUR HONOR.

THE COURT: COUNSEL.

MR. ABZUG: YOUR HONOR, I WOULD REPEAT MY REQUEST TO CROSS-EXAMINE SPECIAL AGENT INTINARELLI OR GREENBERG FOR TWO REASONS; FIRST OF ALL, THE WITNESS THAT HAS JUST BEEN CALLED BY THE PROSECUTION IN NO WAY HAS MET OR CONTRADICTED THE PROFFER THAT I MADE TO THE COURT WITH REGARD TO THE INACCURACIES IN BOTH OF THEIR TESTIMONIES, NO. 1.

AND THAT IS SUFFICIENT REASON TO BEGIN WITH, I THINK, TO ENABLE ME TO CROSS-EXAMINE THEM.

AND NO. 2, I THINK IT IS CLEAR FROM WHAT THE COURT HAS HEARD ABOUT THE TESTIMONY OF SPECIAL AGENT SKAGGS -- AND I SAY THIS WITH THE GREATEST OF RESPECT TO HIM -- IF I WERE GIVEN AN OPPORTUNITY TO CROSS-EXAMINE THESE TWO AGENTS THE COURT MIGHT VERY WELL GET A DIFFERENT PICTURE ABOUT THE RELIABILITY ABOUT THE ASSERTIONS THEY ARE MAKING IN THEIR DECLARATIONS.

SO I RENEW MY REQUEST TO CROSS-EXAMINE THEM, OR IN THE ALTERNATIVE I ASK THE COURT TO STRIKE THE DECLARATION FOR THE RECORD.

THE COURT: WHAT IS THE POSITION OF THE GOVERNMENT ON THAT?

MS. MEZA: EACH OF THE PROFFERS HE MADE WAS ADDRESSED BY AGENT SKAGGS. AND IT IS CLEAR WE DO NOT HAVE TO PRESENT ALL OF THE WITNESSES WHO WOULD TESTIFY TO THE FIRST-HAND KNOWLEDGE. WE CAN INTRODUCE EVIDENCE THROUGH HEARSAY AND THROUGH PROFFERS.

AND WE DID THAT. AND I PRESENTED THE TESTIMONY OF AGENT SKAGGS.

HE CROSS-EXAMINED HIM WITH REGARD TO EACH OF THE MATTERS THAT HE CONTENDED WERE INACCURATE IN THOSE DECLARATIONS.

SO IT IS NOT NECESSARY TO BRING THOSE AGENTS TO TESTIFY AND TO ESSENTIALLY HAVE A REPEAT PERFORMANCE OF WHAT AGENT SKAGGS HAS SAID.

THE COURT: SHOULD I STRIKE THAT PORTION WITH REFERENCE TO THE MERCEDES AND SPORTS CAR?

MR. ABZUG: IS THE COURT ASKING ME?

THE COURT: YES, I AM ASKING YOU.

MR. ABZUG: I THINK YOU SHOULD STRIKE THEIR -- MY REQUEST IS THAT YOU STRIKE THEIR ENTIRE DECLARATIONS FROM THE RECORD.

I THINK THAT THERE IS MORE PROBLEMS WITH THE DECLARATIONS SIMPLY THAN THEY GAVE THE COURT A SLIGHTLY INACCURATE PICTURE ABOUT THE VALUE OF THE AUTOMOBILES THAT WERE OWNED BY MR. ROCA.

THE WHOLE THRUST OF THEIR DECLARATION -- I AM NOT GOING TO GO THROUGH IT LINE-BY-LINE LIKE I DID THIS MORNING -- IS MISLEADING, IT IS NOT TRUE.

THE COURT: THEY DID ANSWER EVERYTHING THAT YOU BROUGHT UP WITH THE EXCEPTION OF THE AUTOMOBILES AND THE VALUES.

SO I AM ASKING, DO YOU WANT TO STRIKE THAT?

MS. MEZA: SURE. IT MAKES NO DIFFERENCE TO THE GOVERNMENT AS TO THE AUTOMOBILES.

THE COURT: FIRST LET ME RULE. IT IS NOT NECESSARY THAT SHE BRING IN THOSE PARTICULAR WITNESSES, THE ONES YOU HAVE ASKED FOR. SHE HAS BROUGHT SOME EVIDENCE TO REBUT WHAT YOU RAISED BY YOUR OFFERS OF PROOF.

THAT IS PERFECTLY PROPER. SHE MUST NOW RELY UPON THE STRENGTH OF THE CASE.

THE NEXT THING IS TO SEE IF THE CONCLUSIONS THAT CAN BE DRAWN ARE PROPER, AND WHAT HAPPENS AFTER THAT WE WILL DECIDE.

MR. ABZUG: VERY WELL, YOUR HONOR.

THE COURT: SO I WILL DENY THAT MOTION ON YOUR PART.

DO YOU HAVE ANYTHING ELSE BEFORE WE HAVE ARGUMENT?

MR. ABZUG: YOUR HONOR, THE COURT HAS THE BENEFIT OF A SUBSTANTIAL QUANTITY OF

PAPER ON THIS ISSUE, AND YOU HAVE PATIENTLY LISTENED TO A NUMBER OF HOURS OF TESTIMONY, SO I WILL TRY RECAPSULIZE WHAT I THINK THE NUB OF MY ARGUMENT IS ON BEHALF OF MR. ROCA.

THE COURT: BEAR IN MIND, WE ARE CONCERNED WITH HIM BEING A FLIGHT RISK.

MR. ABZUG: I HAVE THAT IN THE FOREFRONT OF MY MIND, YOUR HONOR.

LET ME JUST BEGIN BY MAKING AN OBSERVATION.

I THINK THE THRUST -- AT LEAST IN MY JUDGMENT -- THE THRUST OF THE GOVERNMENT'S RESPONSE IS TO TRY TO PERSUADE THE COURT NOT TO PERFORM A CAREFUL ANALYSIS OF ALL OF THE MATERIAL THAT WE HAVE SUBMITTED TO THE COURT FOR ITS REVIEW.

BASICALLY I THINK THEIR ARGUMENT IS THAT, NO. 1, THE CHARGES AGAINST MR. ROCA ARE TOO SERIOUS IN THIS CASE. I DON'T DISPUTE THAT.

THEY HAVE DONE THEIR BEST, WITH SOME DEGREE OF SUCCESS, TO PREVENT ME FROM TESTING THE ASSERTIONS THAT THEIR AGENTS ARE MAKING IN THE DECLARATION THROUGH CROSS-EXAMINATION, AND THEY HAVE EVEN GONE SO FAR AS TO SUGGEST THAT IF THE COURT AGREES WITH MY ARGUMENT AND GRANTS BAIL TO MR. ROCA IT IS GOING TO BE SOME KIND OF A FUTILE ACT BECAUSE THE INS IS GOING TO SLAP A DEPORTATION DETAINER AGAINST HIM.

WHICH IS REALLY, I THINK, THE MOST UNBELIEVABLE ASSERTION AT ALL, AS IF THE INS IS REALLY GOING TO TRY TO DEPORT MR. ROCA OUT OF THE COUNTRY WITH THE PENDENCY OF THESE CHARGES IF HE GETS OUT ON BAIL. IT OBVIOUSLY IS NOT GOING TO HAPPEN.

AS THE COURT POINTS OUT, WHAT THE LAW REQUIRES YOU TO DO IS TO ASSESS WHETHER THERE IS REASONABLE ASSURANCE THAT WE CAN OFFER YOU THAT HE IS GOING TO REMAIN IN THE COUNTRY. AND LET ME JUST SUMMARIZE THE

SALIENT POINTS IN MY OPINION.

THE COURT: LET'S SEE WHAT THEIR POSITION IS.

ARE YOU RELYING UPON FLIGHT RISK AND/OR DANGER?

MS. MEZA: BOTH.

THE COURT: YOU MAY ADDRESS BOTH.

MR. ABZUG: I WOULD EXPECT NO LESS FROM THEM, YOUR HONOR.

HERE ARE THE SALIENT POINTS.

THE FIRST POINT IN MY JUDGMENT THAT IS IMPORTANT IS THAT SINCE NOVEMBER 1989 THIS MAN, MR. ROCA, HAS KNOWN THAT THERE IS AN ACTIVE INVESTIGATION AGAINST HIM, AND THAT THE DEA IS HOT ON HIS TRAIL. WE KNOW THAT, HE KNOWS IT.

WE SUBMITTED AN INVESTIGATIVE REPORT FOR THE COURT'S CONSIDERATION THAT SHOWED IN NOVEMBER OF 1989 HE WAS MEETING WITH THE DRUG ENFORCEMENT ADMINISTRATION IN BOLIVIA. AND THAT HE HIMSELF TOLD THE AGENTS HE HAD

BEEN ADVISED BY HIS ATTORNEY DOWN THERE NOT TO COME BACK INTO THE UNITED STATES BECAUSE OF THE PENDENCY OF CHARGES AGAINST HIM.

AND YET WHAT WE HAVE IS SOMETHING COMPLETELY DIFFERENT. WE HAVE MR. ROCA RETURNING TO THE UNITED STATES WHERE HE LIVES OPENLY AND IS SUBSEQUENTLY ARRESTED.

NOW, THIS IS, I THINK, A VERY IMPORTANT POINT BECAUSE I THINK COMMON SENSE WILL TELL THE COURT THAT IF MR. ROCA IS TRULY THE FLIGHT RISK THAT THE GOVERNMENT CLAIMS HIM TO BE, HE NEVER, NEVER WOULD HAVE COME BACK TO THE UNITED STATES AFTER NOVEMBER 1989.

THAT WOULD HAVE BEEN THE LAST PLACE HE WOULD HAVE GONE. HE WOULD HAVE EITHER REMAINED IN BOLIVIA OR HIDDEN HIMSELF AWAY. AND YET THAT IS NOT WHAT HAPPENED IN THIS CASE.

SO THE FIRST POINT AS FAR AS WHETHER THIS MAN IS A FLIGHT RISK OR NOT IS THAT WE HAVE A MAN THAT KNEW HE WAS IN TROUBLE AND

YET LIVED OPENLY IN THE UNITED STATES AND REMAINED TO FACE THEMUSIC.

THE SECOND POINT THAT I THINK IS IMPORTANT FOR THE COURT TO CONSIDER IS THAT THAT GOVERNMENT MAKES AN ARGUMENT THAT IF THE COURT RELEASES HIM ON BOND, THAT THE FIRST THING MR. ROCA IS GOING TO DO IS TO FLEE TO BOLIVIA WHERE HE ALLEGEDLY HAS FAMILY AND PROPERTY AND I DON'T KNOW WHAT.

WELL, FIRST OF ALL, I DON'T THINK THERE IS ANY PERSUASIVE PROOF BEFORE THIS COURT THAT MR. ROCA HAS ANY PROPERTY DOWN IN BOLIVIA OR THAT IT HAS BEEN BOUGHT UNDER AN ALIAS. THERE IS NO RELIABLE INFORMATION THAT YOU COULD BASE A CONCLUSION ON THAT.

SECONDLY, IT IS IMPORTANT TO THE COURT TO REALIZE THAT FUGITIVES FROM THIS CASE, NAMELY THE DEFENDANT'S MOTHER AND THE DEFENDANT'S SISTER, HAVE BEEN ARRESTED DOWN IN BOLIVIA ON WARRANTS ISSUEING OUT OF THIS COURT.

AND THE REASON THAT THAT IS IMPORTANT IS THAT IT IS EVIDENT, DESPITE THE GOVERNMENT'S SPECTER OF MR. ROCA FLEEING TO BOLIVIA, THAT BOLIVIA IS NOT A SAFE HAVEN FOR HIM.

BECAUSE APPARENTLY THAT IS WHAT HIS MOM TRIED TO DO, AND HIS MOTHER WAS ARRESTED AND HIS SISTER WAS ARRESTED AND THEY ARE NOW BEING EXTRADITED BACK HERE TO THIS COURT TO STAND TRIAL.

SO THERE IS NO SAFE PLACE FOR THIS MAN TO GO, EVEN IF HE WERE INCLINED TO FLEE THE JURISDICTION OF THE COURT.

THE THIRD POINT I WANT TOMAKE IS THAT WE HAVE OFFERED THE COURT A SUBSTANTIAL AMOUNT OF EQUITY.

I WOULD BE SURPRISED -- AND I DON'T MEAN TO BE PRESUMPTUOUS -- BUT I WOULD BE SURPRISED, YOUR HONOR, IF THE COURT HAS HAD MANY CASES WHERE A DEFENDANT HAS OFFERED CLOSE TO $600,000 IN EQUITY TO SECURE HIS APPEARANCE IN COURT.

I MAY BE WRONG, BUT I DON'T THINK SO. THAT IS ONE OF THE LARGEST BONDS THAT I HAVE EVER OFFERED A COURT IN MY EXPERIENCE, AND I HAVE BEEN IN PRACTICE NOW FOR ALMOST 20 YEARS.

BUT THE BOND IS EVEN BIGGER THAN THAT, BECAUSE WE ARE NOT ONLY OFFERING EQUITY OF CLOSE TO $600,000, WHICH WE ARE PREPARED TO PROVE BEFORE THE COURT RELEASES MR. ROCA IS ABSOLUTELY UNTAINTED BY ANY DRUG TRAFFICKING.

AND THE PEOPLE THAT OWN THIS PROPERTY HAVE FILED SWORN DECLARATIONS IN COURT. THEY ARE ALL HERE IN COURT TODAY, NOT ONLY TO ANSWER QUESTIONS BUT TO SHOW THEIR SUPPORT FOR MR. ROCA.

WE ARE NOT ONLY OFFERING THAT, BUT WE ARE OFFERING ALL OF THE PROPERTY THAT IS NOW UNDER FORFEITURE COMPLAINT UP IN LOS ANGELES.

THE GOVERNMENT POOH-POOHS THIS AND SAYS, "WELL, HOW RIDICULOUS IT IS THAT MR. ROCA IS TRYING TO OFFER PROPERTY UNDER FORFEITURE COMPLAINT."

BUT YOUR HONOR I KNOW REALIZES THAT ALL OF THIS PROPERTY, AS A MATTER OF LAW, STILL BELONGS TO MR. ROCA. THERE HAS BEEN NO JUDICIAL FORFEITURE AT THIS POINT OF THAT PROPERTY. IT IS STILL HIS.

I HAVE INDICATED IN MY DECLARATION THAT HE HAS RETAINED COUNSEL TO CONTEST THOSE FORFEITURES.

I HAVEN'T SEEN, BASED ON MY REVIEW OF THE EVIDENCE -- AND INCIDENTLY MY REVIEW OF WHAT HAPPENED TODAY IN COURT -- ANY EVIDENCE TO SUGGEST THAT THEY HAVE A CAPABILITY OF PROVING THAT THIS PROPERTY WAS PURCHASED WITH DRUG PROCEEDS.

AND YET, IN ADDITION TO THE $600,000 WE ARE OFFERING THE COURT, WE ARE OFFERING THIS $5 MILLION WORTH OF EQUITY IN REAL ESTATE AND IN BANK ACCOUNTS AS ADDITIONAL SECURITY.

SO IF MR. ROCA WERE TO CONSIDER LEAVING INSTEAD OF STAYING, HE NOT ONLY WOULD WALK

AWAY FROM THE HOMES OF HIS FRIENDS AND FAMILIES VALUED AT $600,000, BUT HE IS ALSO GOING TO WALK AWAY FROM OVER $5 MILLION IN CASH.

AND THAT IS, I CAN SAFELY SAY, THE LARGEST BOND THAT HAS EVER BEEN OFFERED A COURT IN THE HISTORY OF THE UNITED STATES.

THE PROOF IS IN THE PUDDING, HERE, YOUR HONOR.

THE OTHER FACT I WANT YOU TO CONSIDER IS THAT WE ARE NOT ASKING TO RELEASE MR. ROCA IN A VACUUM. OTHER DEFENDANTS IN THIS CASE THAT ARE FAMILY MEMBERS OF HIS HAVE BEEN RELEASED.

AND THEY HAVE BEEN RELEASED NOTWITHSTANDING SERIOUS CHARGES.

THE YOUNG LADY THAT IS SITTING HERE TO MY LEFT, BEATRIZ ROCA, WHO YOU RELEASED ON THE $300,000 BAIL. YEAH, SHE IS NOT CHARGED WITH AN 848 WITH A MANDATORY LIFE IMPROSONMENT PENALTY, BUT SHE IS CHARGED WITH NARCOTICS TRAFFICKING.

EVEN THOUGH SPECIAL AGENT SKAGGS MAY NOT KNOW WHAT THE LAW IS ON THAT, YOU DO. AND YOU KNOW THAT IT IS A TEN-YEAR MINIMUM MANDATORY WITHOUT PAROLE IF SHE IS CONVICTED, AND THAT THE GUIDELINES INDICATE BECAUSE OF THE SUBSTANTIAL AMOUNT OF NARCOTICS ALLEGED IN THE INDICTMENT THAT IF SHE IS CONVICTED SHE IS GOING TO SERVE SEVENTEEN AND A HALF YEARS WITHOUT PAROLE.

AND YET THIS WOMAN HAS -- I TALKED TO HER PRETRIAL SERVICES OFFICER, AND IT IS IN MY DECLARATION. THEY SAY THAT HER PERFORM-ANCE ON BOND HAS BEEN SUPERLATIVE.

THAT IS TRUE NOT ONLY OF BEATRIZ ROCA, IT IS TRUE OF CIRILA ROCA, HIS WIFE, AND IT IS ALSO TRUE OF VICKEY ROCA, HIS SISTER, ALL OF WHO HAVE BEEN RELEASED ON BOND.

THESE PEOPLE ARE FACING SERIOUS CHARGES. IT IS NO JOKE TO FACE SEVENTEEN AND A HALF YEARS IN JAIL. BY THE TIME BEATRIZ ROCA WOULD BE RELEASED, SHE WOULD BE 60 YEARS OLD.

AND YET SHE IS STAYING.

AND I THINK THAT IS AN INDICATION TO THE COURT THAT IF YOU RELEASE MR. ROCA HE WOULD STAY TOO.

THE OTHER FACT THAT I THINK YOU SHOULD CONSIDER IS THE WEIGHT OF THE EVIDENCE.

I REALLY HAVE NEVER SEEN -- NOT THAT MY PERSONAL EXPERIENCE IS NECESSARILY THAT PERSUASIVE, BUT IT IS STILL INTERESTING THAT THE GOVERNMENT HAS NOT REALLY SUBMITTED ANYTHING TO THE COURT, EVEN IN CAMERA, TO SUPPORT THE ALLEGATIONS THAT THEY ARE MAKING AGAINST MR. ROCA. THE COURT HAS NO BASIS TO CONCLUDE THAT THIS IS AN OVERWHELMING CASE THAT MR. ROCA HAS NO CHANCE OF WINNING.

AND I WILL REPRESENT TO THE COURT, AT LEAST BASED ON MY REVIEW OF THE DISCOVERY, AND MS. MEZA IS FREE TO CORRECT ME IF I AM WRONG, THAT THIS IS NOT A CASE WHERE A DEFENDANT WOULD BE IMPELLED TO FLEE BECAUSE HE HAS NO CHANCE OF WINNING.

THIS IS NOT A CASE, FOR EXAMPLE, LIKE YOU HAVE HAD MANY TIMES, I AM SURE, WHERE THE DEFENDANT HAS CONFESSED, OR WHERE THE DEFENDANT IS PICKED UP ON ELECTRONIC SURVEILLANCE, OR WHERE CO-CONSPIRATORS ARE TALKING ABOUT HIM ON TAPE IN AN INCULPATORY WAY.

THOSE ARE VERY DIFFICULT CASES TO WIN, AND THE DEFENDANT MAY VERY WELL CONCLUDE IN THOSE CASES THAT HE IS BETTER OFF FLEEING. BUT HERE WE DON'T HAVE THAT.

WE HAVE THE TESTIMONY OF THIS WHEELER. IN HIS TESTIMONY -- YOU HAVE A TRANSCRIPT OF IT FILED IN FRONT OF YOU, AND IT IS INSUBSTANTIAL IN THE EXTREME WHAT HE SAYS ABOUT MR. ROCA.

WE HAVE TWO WITNESSES WHO WERE INTERVIEWED DOWN IN BOLIVIA WHO HAVE RECANTED THE THEIR TESTIMONY UNDER OATH, AND THAT IS BASICALLY IT.

I WOULD ASK THE COURT TO CONSIDER THAT.

FINALLY -- AND I SAY THIS NOT IN A NECESSARILY CRITICAL WAY OF THE GOVERNMENT BUT ONLY BECAUSE I THINK IT IS TRUE -- THEIR MOVING PAPERS THAT HAVE BEEN FILED WITH THE COURT ARE MISLEADING. THERE IS NO OTHER WAY TO PUT IT.

THEY HAVE TRIED TO CONVINCE THE COURT THERE IS A WARRANT OUTSTANDING FOR MR.ROCA'S ARREST FROM BOLIVIA. IT IS SIMPLY THERE IS NO BASIS FOR IT. WHAT THEY HAVE SUBMITTED TO YOU IS A WARRANT THAT WAS ISSUED ON JULY 16TH, 1989, ALMOST TWO AND A HALF YEARS AGO. AND THAT IS THE LAST WE HEAR FROM BOLIVIA.

WE HAVE SUBMITTED DOCUMENTATION TO THE COURT THAT SHOWS FOUR MONTHS LATER THAT CASE WAS DISMISSED BECAUSE OF LACK OF EVIDENCE BY A COURT OF COMPETENT JURISDICTION.

AND UNLIKE WHAT THEY DO, WHICH IS THEY EITHER GIVE YOU THE ENGLISH TRANSLATION WITHOUT THE UNDERLYING SPANISH DOCUMENT SO WE CAN'T FIGURE OUT IF THE TRANSLATION IS

CORRECT OR NOT; OR THE SPANISH DOCUMENT WITHOUT THE ENGLISH TRANSLATION, SO NOBODY CAN FIGURE OUT WHAT IT SAYS.

THE DOCUMENTS THAT WE HAVE SUBMITTED TO THE COURT ARE CERTIFIED. THEY ARE THE SPANISH ORIGINALS AND THE ENGLISH TRANSLATIONS SO THE GOVERNMENT CAN REVIEW THEM FOR ACCURACY.

WHAT OUR DOCUMENTS SAY IS THAT FOUR MONTHS AFTER THE LAST DOCUMENT THAT THEY HAVE GIVEN TO YOU SHOWING A WARRANT WAS OUTSTANDING AGAINST MR. ROCA, THE CASE WAS DISMISSED FOR LACK OF EVIDENCE. AND THE COURTS OF COMPETENT JURISDICTION AS RECENTLY AS 1991 HAVE SAID THAT THERE IS NOTHING OUTSTANDING AGAINST HIM IN BOLIVIA.

AND AGENT SKAGGS HAS ADMITTED THAT HE HAS NO INDICATION WHATSOEVER THAT MR. ROCA HAS EVER BEEN CONVICTED OF ANYTHING IN BOLIVIA, MUCH LESS HERE IN THE UNITED STATES.

THEY HAVE SAID THAT MR. ROCA DEPOSITED $2.3 MILLION IN CASH. IT IS ABSOLUTELY UNTRUE. THEY OVERESTIMATED IT BY 30 PERCENT. THE AGENT THAT MADE THAT CALCULATION AND SUBMITTED IT IN COURT CAN'T EVEN ADD.

THEY HAVE SAID THAT HE OWNS PROPERTY HERE IN THE UNITED STATES VALUED AT 10- to $12 MILLION. THAT IS VASTLY INFLATED. THAT IS THE FAIR MARKET VALUE. HIS EQUITY IS LESS THAN $5 MILLION.

THEY TRY TO PERSUADE THE COURT THAT HE IS SOMEHOW LINKED TO THESE SHIPMENTS OF APPLIANCES CONTAINING THE VAST AMOUNTS OF MONEY TO BOLIVIA. THERE IS NO EVIDENCE OF THAT. THERE IS NO EVIDENCE OF IT.

THERE IS NO EVIDENCE THAT HE SHIPPED IT, THAT HE WAS RECIPIENT, OR THAT HE HAD ANYTHING TO DO WITH THE MONEY THAT HAS BEEN FOUND IN THERE. AND YET THEY GO ON AT LENGTH ABOUT ALL OF THIS MONEY THAT WAS SEIZED. IT HAD NOTHING TO DO WITH HIM.

I COULD GO ON, YOUR HONOR, BUT THE RECORD SPEAKS FOR ITSELF. THEY HAVE VASTLY OVERSTATED THEIR CASE.

THIS MAN, FINALLY, YOUR HONOR, HAS A HISTORY OF STABLE RESIDENCE HERE IN THE UNITED STATES. THIS ISNOT A SITUATION LIKE YOU HAVE SEEN MANY TIMES IN COURT BEFORE WHERE YOU HAVE A MAN CHARGED WITH DRUG TRAFFICKING WHO IS ARRESTED AT THE AIRPORT, HE IS AN ILLEGAL ALIEN, HE HAS NO TIES TO THE UNITED STATES.

THIS IS NOT A SITUATION WHERE WE HAVE A MAN WHO IS A FUGITIVE AND HAS BEEN RUNNING FROM THE LAW FOR A LENGTHY PERIOD OF TIME AND IS ARRESTED AND IS DRAGGED INTO COURT.

THIS MAN -- WE HAVE SUBMITTED DOCUMENTATION TO THE COURT WHICH THEY DON'T DISPUTE AND IT IS IN THE PRETRIAL SERVICES REPORT, IT IS IN THE DOCUMENTATION THAT WE FILED WITH THE COURT AND SPECIAL AGENT SKAGGS HAS NOT DISPUTED UNDER OATH -- THIS MAN HAS BEEN

HERE SINCE ELEMENTARY SCHOOL.

HALF THE PEOPLE IN THE CITY CAN'T EVEN SAY THAT. HE HAS BEEN HERE SINCE 1964.

HE HAS WORKED HERE, HE WAS MARRIED HERE, HE RAISED CHILDREN HERE. HE HAS LEGAL STATUS HERE. HE HAS NEVER BEEN IN TROUBLE HERE. THIS MAN HAS SUBSTANTIAL ROOTS TO HIS COMMUNITY.

THE CASE IS GOING TO GO ON FOR A LONG TIME, YOUR HONOR. WE HAVEN'T DISCUSSED A TRIAL DATE, BUT IT IS GOING TO BE SOMETIME NEXT YEAR, I THINK.

WE ARE TALKING ABOUT A SUBSTANTIAL PERIOD OF TIME AS TO WHETHER THIS MAN IS GOING TO BE -- WHO IS PRESUMED INNOCENT IS GOING TO REMAIN IN CUSTODY OR IS GOING TO JOIN HIS TWO SISTERS AND HIS WIFE OUT ON BAIL TO PREPARE FOR THE CASE.

I DON'T DISPUTE THE CHARGES AS SERIOUS, YOUR HONOR, BUT THE LAW SAYS THAT YOUR INQUIRY DOESN'T END THERE.

I THINK THAT BASED ON EVERYTHING THAT HAS BEEN PLACED BEFORE YOU REGARDING THE CASE, HIS ROOTS IN THE COMMUNITY, THE VAST AMOUNT OF EQUITY THAT WE ARE PROPOSING. WE A ARE EVEN CONCEDING THAT HE SHOULD BE UNDER HOUSE ARREST WITH ELECTRONIC SURVEILLANCE SUPERVISION.

THIS MAN IS A REASONABLE BAIL RISK. HE IS GOING TO REMAIN IN COURT. HE IS NOT A FLIGHT RISK AND HE IS NOT A DANGER TO THE COMMUNITY.

I WOULD URGE THE COURT TO GRANT HIS APPLICATION FOR BOND.

THE COURT: LET'S TAKE ABOUT A TEN MINUTE BREAK. WE WILL BE IN RECESS ABOUT TEN MINUTES.

(RECESS)

THE COURT: ALL PARTIES ARE PRESENT.

MS. MEZA, WE WILL HEAR FROM YOU.

MS. MEZA: THANK YOU, YOUR HONOR.

YOUR HONOR, THIS DEFENDANT HAS BEEN CHARGED AS THE LEAD DEFENDANT IN TWO VERY SERIOUS INDICTMENTS, HERE IN SAN DIEGO ANOTHER ONE IN LOS ANGELES.

JUST TAKING A LOOK AT THE SAN DIEGO INDICTMENT, HE IS CHARGED WITHNARCOTICS OFFENSES AND HE IS CHARGED WITH BEING THE LEADER OF A CONTINUING CRIMINAL ENTERPRISE. VERY SERIOUS OFFENSES.

NOT TEN KILOS OF COCAINE, WE ARE TALKING ABOUT MULTI-TON QUANTITIES OF COCAINE AND MILLIONS OF DOLLARS THAT WERE TRAFFICKED BY THIS INDIVIDUAL AS A HEAD OF A VERY POWERFUL DRUG ORGANIZATION THAT WASN'T JUST LIMITED TO CALIFORNIA, IT IS INTERNATIONAL IN SCOPE.

THE OFFENSES CARRY A MANDATORY LIFE SENTENCE, YOUR HONOR. AND WE DON'T SEE THESE TYPES OF CASES FREQUENTLY IN THIS COURT.

WE USUALLY SEE CASES INVOLVING SAY TEN OR FIFTY KILOS OF COCAINE, AND IN THOSE CASES, COURTS HAVE HAD NO PROBLEM DETAINING INDIVIDUALS WHERE IT IS SHOWN THAT THOSE INDIVIDUALS HAVE ACCESS TO LARGE SUMS OF MONEY AND ALSO TIES TO AREAS OUTSIDE OF THE UNITED STATES.

THERE IS A VERY STRONG PRESUMPTION IN THIS CASE THAT ROCA-SUAREZ SHOULD BE DETAINED. HE POSES A FLIGHT RISK AND A DANGER TO THE COMMUNITY.

NOW, IN THE FACE OF THE INDICTMENT HERE THAT HAS BEEN FILED IN SAN DIEGO, HE PROPOSES TO BE RELEASED ON A NO-CASH PERSONAL SURETY BOND OF $550,000, SECURED PRIMARILY WITH PROPERTY THAT HAS ALREADY BEEN SEIZED BY THE GOVERNMENT. THIS IS LUDICROUS.

THE COURT: THERE IS CONFLICT, NOW. COUNSEL FOR THE DEFENDANT SAYS THAT HAS NOT BEEN SEIZED, AND YOU SAY IT HAS.

MS. MEZA: IT HAS BEEN SEIZED, YOUR HONOR. THERE IS A FORFEITURE ACTION PENDING IN LOS ANGELES. WHAT COUNSEL SAYS IS THEY ARE CONTESTING THAT SEIZURE.

THEY ARE, BUT THOSE PROPERTIES, 35 PROPERTIES, HAVE BEEN SEIZED BY THE GOVERNMENT ON THE BASIS THEY WERE OBTAINED BY THE DRUG PROCEEDS.

THE COURT: IS THERE A SEIZURE ACTION PENDING?

MR. ABZUG: YES. LET ME JUST CLARIFY IT. I THINK MS. MEZA MAY HAVE INADVERTENTLY MISSPOKE HERSELF.

THE PROPOSAL IS IN TWO PARTS. THE FIRST PART IS TO POSTA $550,000 APPEARANCE BOND. OUR PROPOSAL IS THAT THAT APPEARANCE BOND BE TOTALLY COLLATERALIZED BY PROPERTY THAT IS NOT THE SUBJECT OF ANY SEIZURE BY THE UNITED STATES GOVERNMENT.

THOSE PROPERTIES WHICH WILL FULLY COLLATERALIZE THE $550,000 APPEARANCE BOND

ARE OWNED BY SURETIES THAT ARE NOT UNDER INDICTMENT AND ARE PRESENT HERE IN COURT.

AS THE SECOND PART OF OUR PROPOSAL, WE ARE ALSO PROPOSING ON TOP OF THAT THAT MR. ROCA AND HIS FAMILY EXECUTE AN AGREEMENT THAT IF HE FLEES, THAT NOT ONLY WILL HE FORFEIT THE $550,000 APPEARANCE BOND THAT IS COL-LATERALIZED BY TOTALLY LEGITIMATE, INQUES-TIONABLY LEGITIMATE PROPERTY OF HIS FRIENDS AND FAMILY, BUT ON TOP OF THAT HE IS GOING TO FORFEIT ANY RIGHT TO CONTEST THE SEIZURE OF OVER $5 MILLION WORK OF ASSETS.

MS. MEZA: SO WHAT IT COMES DOWN TO, YOUR HONOR, THAT HE IS PROPOSING A $550,000 BOND THAT IS SECURED WITH PROPERTY THAT HAS NOT BEEN SEIZED, THAT HAS AN EQUITY OF $579,000. AND HE PROPOSES FOUR SURETIES, ONE OF WHOM HAS A PRIOR DRUG CONVICTION FOR SELLING MARIJUANA.

FOR THIS TYPE OF CASE AND THIS KIND OF DEFENDANT, THAT BAIL PROPOSAL DOESN'T COME CLOSE TO REBUTTING THE PRESUMPTION THAT HE SHOULD BE DETAINED.

HE ALSO OFFERS TO STAY AT HOME AND WEAR AN ELECTRONIC MONITORING DEVICE. WELL, THAT PROPOSAL HAS RECENTLY BEEN REJECTED BY THE NINTH CIRCUIT AS NOT OFFERING ANY KIND OF ASSURANCE THAT HE WILL NOT FLEE.

AND SOMEBODY LIKE HIM, WHO IS LEADER OF A VERY SOPHISTICATED DRUG ORGANIZATION, WILL HAVE NO PROBLEM GETTING AROUND THOSE RESTRICTIONS. ALL IT WILL DO IS TO ALERT THE LAW ENFORCEMENT AGENCY THAT HE HAS FLED, BUT BY THEN IT IS TOO LATE.

WE NEED ONLY LOOK AT WHAT HIS MOTHER DID. HE SAYS HE WILL STAY AROUND TO FACE THE MUSIC HERE. WHAT DID HIS MOTHER DO? AS SOON AS SHE LEARNED THAT INDICTMENTS HAD COME DOWN, SHE FLED. SHE WAS IN LOS ANGELES, SHE FLED TO BOLIVIA. AND SHE WAS RECENTLY

ARRESTED THERE.

AND WHAT DID SHE SAY? THAT SHE HAD BEEN LIVING IN LOS ANGELES FOR 20 YEARS, AND SHE HAD RECENTLY LEFT AFTER THE ARREST OF HER SON.

SO SHE DIDN'T TRY TO FACE THE MUSIC. MOST OF HIS RELATIVES HAVE NOT TRIED TO FACE THE MUSIC.

REVIEWING THE RELEVANT FACTORS THAT ARE SET FORTH IN THE STATUTE SUPPORTS A FINDING OF DETENTION.

THE FIRST FACTOR AND THE MOST IMPORTANT THAT THE COURT MUST CONSIDER IS THE NATURE OF THE OFFENSE.

AS I HAVE STATED, THIS IS A SERIOUS NARCOTICS OFFENSE INVOLVING MULTI-TON QUANTITIES OF COCAINE AND MILLIONS OF DOLLARS, AND ACTS OF VIOLENCE AND OBSTRUCTION OF JUSTICE TO PROMOTE A CRIMINAL ENTERPRISE.

THE DEFENDANT IS NOT SIMPLY CHARGED WITH BEING A MEMBER OF AN ORGANIZATION, HE

IS CHARGED WITH BEING THE LEADER.

YOUR HONOR, HE IS THE KIND OF PERSON THAT CONGRESS INTENDED SHOULD BE DETAINED, AND UNDER NO CIRCUMSTANCES SHOULD HE BE RELEASED, BECAUSE HE IS A FLIGHT RISK.

I HAVE A COPY OF A NINTH CIRCUIT CASE, YOUR HONOR.

THE COURT: LET ME INTERRUPT YOU A MOMENT. BOTH OF YOU FILED VOLUMINOUS DECLARATIONS ET CETERA.

ARE YOU STIPULATING THOSE CAN COME INTO EVIDENCE FOR PURPOSES OF THIS HEARING?

MS. MEZA: YES, YOUR HONOR.

MR. ABZUG: NO, YOUR HONOR. I RENEW MY REQUEST THAT THE DECLARATIONS OF INTINARELLI AND GREENBERG NOT BE RECEIVED.

THE COURT: WOULD THAT BE THE ONLY TWO?

MR. ABZUG: YES.

THE COURT: EVERYTHING ELSE CAN?

MR. ABZUG: YES.

THE COURT: OKAY.

MS. MEAZ: YOUR HONOR, IT IS THE CASE OF UNITED STATES VERSUS CARDENAS FROM THE SOUTHERN DISTRICT OF CALIFORNIA.

THE COURT: WHY DON'T YOU TELL ME WHAT IT IS ALL ABOUT.

MS. MEZA: YOUR HONOR, IN THAT CASE, THE DEFENDANT WAS DETAINED. IT INVOLVED LARGE QUANTITY OF DRUGS. IT WAS MARIJUANA. BUT THE COURT CITED THE CACT -- AND I HIGHLIGHTED THE PAGES WHERE THE COURT TOOK NOTE.

THE COURT: THIS IS OUT OF YOUR OFFICE?

MS. MEZA: YES.

THAT THIS PERSON SHOULD BE DETAINED BECAUSE HE NOT ONLY WAS INVOLVED IN TRAFFICKING LARGE QUANTITIES OF COCAINE, HE HAD ACCESS TO LARGE SUMS OF MONEY FROM RELATIVES LIVING OUTSIDE OF THE UNITED STATES.

AND HE WAS A MEMBER OF A LARGE DRUG-TRAFFICKING ORGANIZATION, QUINTER-PAYAN DRUG GROUP.

SO THE COURT FOUND THOSE CIRCUMSTANCES WARRANTED DETENTION.

AND IT DIDN'T MATTER THAT THAT DEFENDANT WAS A CITIZEN OF THE UNITED STATES. IN THIS CASE, THE DEFENDANT IS NOT EVEN A CITIZEN.

YOUR HONOR, NOT ONLY DO WE HAVE A VERY SERIOUS OFFENSE THAT HE IS CHARGED WITH, BUT WE ALSO HAVE SUBSTANTIAL EVIDENCE TO ESTABLISH THAT THIS INDIVIDUAL COMMITTED THESE CRIMINAL ACTS.

YOU HAVE THE INDICTMENT IN SAN DIEGO THAT YOU MAY CONSIDER. YOU ALSO HAVE THE INDICTMENT IN LOS ANGELES.

PLUS, YOU CAN CONSIDER THE TRIAL TESTIMONY OF A GOVERNMENT WITNESS WHO TESTIFIED THAT HE WAS PRESENT AT A VERY CRITICAL MEETING IN BOLIVIA WHERE 5,000 KILOGRAMS OF COCAINE WERE DISCUSSED.

YOUR HONOR, IN ADDITION TO THAT, HE WAS IDENTIFIED AS A PRODUCER OF COCAINE BY

ANOTHER CO-CONSPIRATOR, EFREN MENDEZ, WHO WAS CONVICTED IN THE UNDERLYING CASE. AND PORTIONS OF THE TRIAL TRANSCRIPT WERE ATTACHED TO THE GOVERNMENT'S PAPERS AND ARE IN EVIDENCE IN THIS CASE.

THE COURT SHOULD ALSO CONSIDER THE HISTORY AND CHARACTERISTICS OF THE DEFENDANT, HIS USE OF ALIASES.

AT THE TIME OF HIS ARREST, THE OFFICERS FOUND DOCUMENTS WITH FALSE IDENTIFICATION. HE DOES NOT DENY THAT THOSE DOCUMENTS WERE ON HIS PERSON OR IN HIS HOME AT THE TIME OF HIS ARREST.

ALSO, HE ACQUIRED A GREAT DEAL IN PROPERTY IN A SHORT PERIOD OF TIME. HE DOES NOT DENY THAT THAT IS HIS PROPERTY.

HE WAS ALSO PROSECUTED IN BOLIVIA FOR MANUFACTURING COCAINE. AND THE CIRCUMSTANCES OF THAT DISMISSAL OF THAT CASE ARE VERY SUSPECT AND IT LED TO AN INVESTIGATION.

SO THAT IS FURTHER PROOF THAT HE WILL STOP AT NOTHING TO EVADE PROSECUTION, TO EVADE A CONVICTION.

FAMILY TIES, YOUR HONOR, HIS FAMILY READS LIKE WHO'S WHO IN THE INTERNATIONAL COCAINE WORLD. MOST OF HIS RELATIVES FROM THE IMMEDIATE FAMILY HAVE BEEN INDICTED EITHER IN SAN DIEGO OR LOS ANGELES.

AND HIS MOTHER AND SISTER FLED THE LOS ANGELES AREA AND WERE RECENTLY CAPTURED IN BOLIVIA, BUT A LOT OF PEOPLE ARE STILL FUGITIVES IN THIS CASE AND HAVE MADE NO ATTEMPT TO SURRENDER.

HIS FINANCIAL RESOURCES IS ANOTHER FACTOR THAT THE COURT CAN CONSIDER. AND HE HAS ACCUMULATED A VAST FORTUNE IN A SHORT PERIOD OF TIME.

IN 1991, ACCORDING TO THE PRETRIAL SERVICES, THERE WAS A WARRANT FOR HIS ARREST FOR PASSING BAD CHECKS. 1981. THEN, ALL OF A SUDDEN, THIS MAN HAS MILLIONS OF DOLLARS

IN PROPERTY.

JUST LOOKING AT THE LOS ANGELES INDICTMENT YOU SEE THE AMOUNT OF CASH THAT WAS GOING BACK AND FORTH BETWEEN THE FAMILY MEMBERS.

HE HAS GOT AN INCREDIBLE AMOUNT OF CASH THAT HE CAN TURN TO IN THE EVENT THAT HE COULD MASTERMIND AN ESCAPE PLAN. AND THAT IS PRECISELY WHAT HE WOULD DO IF HE WERE RELEASED ON BAIL.

REGARDING HIS COMMUNITY TIES, HE SAYS HE HAS A HISTORY OF STABLE RESIDENCE IN THE LOS ANGELES AREA.

WELL, WE NEED ONLY LOOK TO THE REPORT OF THE PRETRIAL SERVICES. HE ADMITTED TO THE PRETRIAL SERVICES OFFICER THAT HE TRAVELED BACK AND FORTH BETWEEN THE UNITED STATES AND HIS NATIVE COUNTRY WITH SOME REGULARITY.

HE DID. HE WENT BACK AND FORTH. AND BOLIVIA IS WHERE HE BUILT HIS EMPIRE.

NOW, THE DEFENSE SAYS, "WELL, HE IS NOT GOING TO RETURN TO BOLIVIA BECAUSE THE FACT THAT THEY ARRESTED HIS MOTHER IS GOING TO DETER HIM FROM GOING TO BOLIVIA."

WE DON'T HAVE TO SHOW HE IS GOING TO GO TO BOLIVIA, HE CAN GO WHEREVER HE WANTS. ALL WE HAVE TO SHOW IS THAT HE IS NOT LIKELY TO MAKE HIS APPEARANCES IN COURT.

HE DOES HAVE A VAST FORTUNE STILL IN BOLIVIA, AND HE HAS GOT RELATIVES THERE WHO CAN EASILY HELP HIM RETRIEVE SOME OF THAT FORTUNE AND HELP HIM ESCAPE.

WITH REGARD TO HIS TIES TO THE UNITED STATES, WHATEVER TIES HE HAD TO THE UNITED STATES HAVE DISAPPEARED. HE IS SIMPLY A LEGAL RESIDENT.

THE COURT: WAIT. LOOK AROUND YOU, NOW. JUST TURN AROUND. YOU HAVE A LOT OF TIES THERE.

MS. MEZA: WELL, HE HAS A LOT OF TIES IN BOLIVIA, BUT HE IS NO LONGER GOING TO BE

A LEGAL RESIDENT IN THIS COUNTRY, YOUR HONOR.

EVEN IF HE IS NOT CONVICTED, INS CAN STILL GO AFTER HIM AND STRIP HIM OF WHATEVER LEGAL STATUS HE HAD IN THE UNITED STATES, EVEN IF HE IS.

AND WHATEVER PROPERTY HE HAD IN THE UNITED STATES HAS ALREADY BEEN SEIZED. SO HE DOESN'T HAVE ANY LEGAL TIES TO THIS COUNTRY.

FURTHERMORE, IF HE IS CONVICTED, AND EVEN IF HE IS NOT CONVICTED ON THE CONTINUING CRIMINAL ENTERPRISE CHARGE, YOUR HONOR, IF HE IS CONVICTED OF A LESSER OFFENSE, IF HE SERVES HIS TIME IN PRISON, THEN HE WILL GET DEPORTED BECAUSE HE WILL LOSE HIS LEGAL RESIDENCY STATUS, HE WILL GO BACK TO BOLIVIA AND FACE PROSECUTION AS WELL. SO HE HAS NO REASON TO STICK AROUND.

THE COURT: HE IS NOT A NATURAL CITIZEN?

MS. MEZA. NO, HE IS NOT A CITIZEN.

THE COURT: HOW DID HE ACQUIRE CITIZENSHIP, BY BIRTH?

MR. ABZUG: HE IS NOT A CITIZEN. HE HAS BEEN A LEGAL RESIDENT ALIEN SINCE 1965.

THE COURT: SO IT CAN BE TAKEN AWAY, THEN?

MS. MEZA: YES.

THE COURT: I AM JUST SAYING IT IS POSSIBLE.

MR. ABZUG: IT IS POSSIBLE, SURE, IF HE IS CONVICTED. BUT HE HASN'T BEEN CONVICTED OF ANYTHING.

MS. MEZA: AND I AM SAYING THAT EVEN IF HE IS NOT CONVICTED, BASED ON THE EVIDENCE THAT THE GOVERNMENT HAS AT THIS TIME, HE CAN BE STRIPPED OF HIS LEGAL STATUS IN THE UNITED STATES AND DEPORTED.

YOUR HONOR, I WOULD ALSO LIKE TO RESPOND TO SOME OF THE ARGUMENTS THAT WERE MADE BY MR. ABZUG.

HE CLAIMS THAT BECAUSE THE DEFENDANT KNEW HE WAS THE SUBJECT OF AN INVESTIGATION AND THAT HE RETURNED TO THE UNITED STATES THAT SOMEHOW THAT PROVES THAT HE WON'T FLEE AND THAT HE WILL STICK AROUND TO FACE THE MUSIC. THAT IS NOT TRUE. IT WASN'S UNUSUAL FOR HIM TO MEET WITH LAW ENFORCEMENT IN BOLIVIA.

AS A MATTER OF FACT, ONE OF THE OVERT ACTS ALLEGED IN THE INDICTMENT IS THAT HE FREQUENTLY TRIED TO CULTIVATE LAW ENFORCEMENT BECAUSE HIS M.O. WAS TO SNITCH OFF COMPETITORS TO ELIMINATE THE COMPETITION.

SO WHAT HE WAS DOING WAS FISHING FOR INFORMATION, AND HE OFFERED TO GIVE INFORMATION TO DEA ABOUT COMPETITORS. THAT IS ALL HE DID. HE WAS NEVER TOLD HE WAS UNDER INVESTIGATION, HE WAS FISHING FOR INFORMATION.

WHEN HE CAME HERE TO THE UNITED STATES HE DIDN'T KNOW THERE WAS AN INDICTMENT, THE INDICTMENTS WERE SEALED. HIS MOTHER DIDN'T

KNOW. BUT AS SOON AS HE WAS ARRESTED, EVERYBODY ELSE SPLIT. THE ONLY PEOPLE WE FOUND WERE HIM, HIS WIFE, AND TWO SISTERS. EVERYBODY ELSE WAS GONE. AND THEY ARE STILL FUGITIVES.

WE NEED ONLY LOOK AND SEE WHAT HIS MOTHER DID TO SEE WHAT HE WILL DO IF HE GETS RELEASED. AND THE ONLY REASON THE OTHER DEFENDANTS WHO ARE OUT ON BAIL ARE STILL AROUND IS BECAUSE THEY ARE WAITING FOR THE LEADER. ONCE THE LEADER IS RELEASED, THEY WILL ALL LEAVE.

THEN HE ALSO EXPLAINED THE SUDDEN WEALTH AND HE ATTRIBUTES IT TO HIS MOTHER GIVING HIM A LARGE GIFT IN 1985.

AND WE EXPLAINED THE CIRCUMSTANCES, THE VERY SUSPICIOUS CIRCUMSTANCES, OF THAT TRANSFER THAT OCCURRED ONLY AFTER IRS AGENTS STARTED QUESTIONING REAL ESTATE AGENTS ABOUT THE LARGE PURCHASES AND ABOUT THEIR TAX RETURNS, WHICH REFLECTED VERY LITTLE

INCOME.

SO ALL THEY WERE DOING WAS TRYING TO COVER THEIR TRACKS. AND THAT IS THE SUBJECT OF THE L.A. INDICTMENT.

THE CASH SEIZURES AND THE DEPOSITS, THEY DON'T DENY THEIR LARGE CASH DEPOSITS. THEY JUST QUIBBLE WITH THE MATHEMATICS AND THEY CLAIM THAT WE ARE OFF BY A $1,000 HERE AND $1,000 THERE, BUT THEY DON'T DENY THAT THERE WERE SUBSTANTIAL CASH DEPOSITS.

HE DOESN'T DENY THAT HE WAS IN MIAMI WHEN ANOTHER INDIVIDUAL WAS ARRESTED WITH $1.16 MILLION IN CASH, AND THAT HE WAS THE PERSON WHO ANSWERED THE DOOR AT THE LOCATION WHERE THAT CO-CONSPIRATOR SAID HE WAS SUPPOSED TO DELIVER THE MONEY.

AND THAT AT THE TIME IN MIAMI, 1987, HE HAD ON HIS PERSON $31,000.

HE SAYS, "BUT THE GOVERNMENT DOESN'T HAVE A CONVICTION, AND I DID GET MY MONEY BACK."

BUT THE POINTIS, WHAT IS HE DOING WITH $31,000 IN CASH IN MIAMI IN 1987?

WHEN HE WAS ARRESTED IN 1990, WHAT WAS HE DOING WITH OVER $110,000 WRAPPED IN DUCT TAPE? WE NEVER GOT AN EXPLANATION OF THAT.

ALSO IN THE MOVING PAPERS, ORIGINALLY THEY SAID THAT THEY WERE NEVER -- THAT THE DEFENDANT WAS NEVER IDENTIFIED AS A CO-CONSPIRATOR IN THE UNDERLYING CASE.

WRONG. WE PRODUCED A TRANSCRIPT OF THAT TRIAL WHERE A WITNESS IDENTIFIED HIM AS A CO-CONSPIRATOR.

HE ALSO SAID THAT NONE OF HIS FAMILY MEMBERS HAD FLED TO AVOID PROSECUTION. HE SAID THEY JUST WEREN'T HERE. HE DIDN'T DENY THE FACT THAT THE MOTHER WAS SEEN IN LOS ANGELES, AND THAT IN FACT SHE FLED. HE DIDN'T CONTEST THAT PART OF THE DECLARATION FROM ONE OF THE AGENTS.

HE ALSO SAID THAT NO CO-CONSPIRATOR IDENTIFIED HIM AS A COCAINE PRODUCER. HE IS

WRONG THERE TOO. WE SHOWED THE COURT THAT EFREN MENDEZ IDENTIFIED HIM AS A PRODUCER OF COCAINE.

AND HE ALSO SAID HE WAS ACQUITTED IN THE LA RAMADA CASE. WE POINTED OUT THAT WASN'T PRECISELY TRUE. YES, THE CASE WAS DISMISSED, BUT IT WAS REINSTATED. AND IT WAS DISMISSED ONLY AS A RESULT OF A HIGH-LEVEL OBSTRUCTION OF JUSTICE.

YOUR HONOR, THERE ARE NO CIRCUMSTANCES UNDER WHICH THIS MAN SHOULD BE RELEASED. HE IS A FLIGHT RISK AND A DANGER TO THE COMMUNITY.

I AGREE WITH PRETRIAL SERVICES THAT HE SHOULD BE DETAINED.

FURTHERMORE, THE BAIL PROPOSAL THAT THEY PROPOSED DOESN'T COME CLOSE TO REBUTTING THE PRESUMPTION OF DETENTION IN THIS CASE.

THANK YOU.

THE COURT: DO YOU WISH TO ANSWER?

MR. ABZUG: THANK YOU, YOUR HONOR.

YOUR HONOR, THERE IS SO LITTLE THAT I AGREE WITH FROM WHAT MS. MEZA SAID, IT IS KIND OF DIFFICULT TO KNOW WHERE TO BEGIN.

IN THINK THE RECORD SPEAKS FOR ITSELF. YOU HAVE HEARD THE EVIDENCE AND YOU HAVE SEEN WHAT HAS BEEN FILED WITH THE COURT BY WAY OF DOCUMENTARY EVIDENCE AND YOU CAN -- I INVITE YOU TO COMPARE THAT WITH THE ALLEGATIONS THAT HAVE BEEN MADE BY MS. MEZA.

LET ME JUST CONCLUDE BY MAKING A FEW OBSERVATIONS.

MS. MEZA SAYS THAT MR. ROCA IS THE TYPE OF INDIVIDUAL THAT CONGRESS INTENDED TO DETAIN. CONGRESS DOESN'T KNOW ANYTHING ABOUT MR. ROCA. MANY PEOPLE HAVE BEEN RELEASED ON BOND WHO ARE CHARGED WITH SERIOUS OFFENSES, SOME ARE DETAINED SOME ARE NOT.

TO SAY THAT CONGRESS INTENDS SOMEBODY TO BE RELEASED OR THAT THEY SHOULD BE DETAINED IS REALLY NOT THE ISSUE. THE ISSUE IS WHAT THIS COURT THINKS, BASED ON ALL OF

THE EVIDENCE THAT HAS BEEN BROUGHT BEFORE YOY YOU.

THE POINT IS THAT YOU DO -- XONFEWAA HAS GIVEN YOU DISCRETION IF YOU SEE FIT TO RELEASE HIM ON A REASONABLE BAIL.

IF YOU LOOK AT THIS, IN MY OPINION, IN A COMMON-SENSE FASHION, I THINK THAT BASED ON EVERYTHING WE HAVE SHOWN YOU, MR. ROCA LEGALLY AND EQUITABLY IS ENTITLED TO THE MASSIVE SECURITY THAT WE ARE OFFERING THE COURT.

HE HAS NEVER USED AN ALIAS. THAT IS NOT AN ACCURATE STATEMENT.

THE CARDENAS CASE THAT THE GOVERNMENT HAS SUBMITTED TO THE COURT AS SOME KIND OF A SUPPORT FOR THEIR POSITION IS INTERESTING BECAUSE IT SUPPORTS MY CLAIM TO THE EXTENT THAT IT IS EASILY DISTINGUISHABLE.

IN THE CARDENAS CASE THEY DETAINED MR. CARDENAS BUT NOTED THAT, NO. 1, DURING HIS ADULT LIFE HE RESIDED WITH RELATIVES IN

MEXICO -- WHICH I AM READING NOW FROM HEAD-NOTE 8 FROM PAGE 937, THE FIRST COLUMN RIGHT AT THE BOTTOM.

MR. ROCA HASN'T LIVED WITH RELATIVES IN BOLIVIA OR OUTSIDE OF THE COUNTRY FOR SUBSTANTIAL PERIODS OF HIS ADULT LIFE, HE HAS BEEN HERE SINCE HE WAS KNEE-HIGH TO A GRASSHOPPER.

IT SAYS THAT HE WAS EMPLOYED -- IT SAYS MR. CARDENAS WAS EMPLOYED BY FAMILY IN MEXICO. THERE IS NO PROOF THAT MR. ROCA WAS EMPLOYED OUTSIDE OF THE UNITED STATES. HE HAS BEEN HERE SINCE HE WAS IN GRADE SCHOOL.

IT IS JUST APPLES AND ORANGES, AN ENTIRELY DIFFERENT SITUATION.

THE GOVERNMENT CAN'T HAVE IT BOTH WAYS. THEY CAN'T CLAIM THAT MR. ROCA HAS BEEN DIFFICULT TO FIND AND YET SAY AT THE SAME TIME THAT THERE HAVE BEEN FREQUENT MEETINGS WITH THE DRUG ENFORCEMENT ADMINISTRATION.

THERE HAVE BEEN FREQUENT MEETINGS WITH THE DRUG ENFORCEMENT ADMINISTRATION. AS A RESULT OF THOSE MEETINGS, NO. 1, THEY KNEW WHERE HE WAS. THEY HAD NO DIFFICULTY FINDING THIS MAN. HE AND HIS FAMILY HAVE LIVED HERE SINCE 1964.

NO. 2, HE KNEW EXACTLY WHAT WAS GOING ON AS FAR AS BEING IN JEOPARDY OF BEING PROSECUTED.

THEY HAVE BACKED AWAY SUBSTANTIALLY FROM ALMOST EVERY ALLEGATION THAT THEY HAVE MADE IN THEIR MOVING PAPERS TO SUPPORT THEIR POSITION THAT HE SHOULD BE DETAINED ON BOND.

IN THE MOVING PAPERS THEY SAY THAT HE WAS THE INTENDED SOURCE OF THIS MONEY THAT WAS SEIZED BACK IN MIAMI, NOW THEY PILLORY HIM NOT BECAUSE HE WAS THE INTENDED SOURCE, BUT BECAUSE HE WAS IN A ROOM WHERE THE MAN THAT WAS SEIZED WITH THE MONEY APPARENTLY STAYED.

IT JUST IS NOT RIGHT TO DETAIN MR. ROCA ON THOSE KINDS OF ALLEGATIONS.

ESS, ELECTRONIC SURVEILLANCE,IS NOT THE ONLY CONDITION OF SECURITY THAT WE ARE PROPOSING TO THE COURT. IT IS ONE OF THE THINGS THAT WE THINK YOU MIGHT FIND APPROPRIATE.

IT HAS BEEN USED IN THIS DISTRICT REGULARLY IN SERIOUS CASES.

I KNOW FROM MY OWN EXPERIENCE UP IN LOS ANGELES I WAS IN A MAIL BOMBING CASE WHERE A VICTIM WAS BLOWN APART BY A MAIL BOMB AND THE DEFENDANT WAS PUT ON ELECTRONIC SURVEILLANCE ON THAT CASE.

IT HAS BEEN USED IN SERIOUS CASES. WE ARE OFFERING IT. YOU MAY THINK IT IS APPROPRIATE HERE.

I THINK YOU SHOULD LET HIM OUT ON THE SUBSTANTIAL EQUITY THAT WE ARE OFFERING.

THE COURT: THE MATTER WILL BE SUBMITTED, AND I WILL GIVE YOU A MEMORANDUM OF OPINION.

MR. ABZUG: THANK YOU.

ONE FINAL REQUEST. AS YOU KNOW, THERE HAS BEEN A STANDING ORDER THAT MR. ROCA SHOULD BE MAINTAINED AT THE MDC IN LOS ANGELES. WOULD THE COURT BE GOOD ENOUGH TO ORDER THE MARSHALS TO RETURN HIM BACK TO LOS ANGELES FORTHWITH, WITHIN 48 HOURS?

THE COURT: DO YOU HAVE ANY OBJECTION?

MS. MEZA: NO, YOUR HONOR.

THE COURT: YES, HE MAY BE RETURNED BACK TO LOS ANGELES, IF THAT IS WHERE HE WANTS TO GO.

MS. MEZA: THANK YOU, YOUR HONOR.

MR. ABZUG: THANK YOU, YOUR HONOR.

* * * * *

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

/s/ (7/10/91)

INDEX OF WITNESSES

FOR THE PLAINTIFF:	DIRECT	CROSS	REDIRECT	RECROSS
SKAGGS, STEPHEN				
BY MS. MEZA	16		76	
BY MR. ABZUG		41		79

INDEX OF EXHIBITS

FOR THE PLAINTIFF:	IDENTIFIED	RECEIVED
1 MAP	31	

EXHIBIT D

DECLARATION OF
DEA SPECIAL AGENT
STEPHEN P. SKAGGS

I, Stephen P. Skaggs, hereby declare as follows:

1. I am a Special Agent in the United States Department of Justice, Drug Enforcement Administration (hereinafter DEA), currently assigned to the San Diego Division at National City, California. I have been a federal agent for approximately six years and have been assigned to the San Diego Division since September of 1985. Prior to my employment with DEA, I was employed as a police officer for the Columbus Division of Police, Columbus, Ohio, for a duration of twelve years. I am familiar with the methods and trends of manufacturing and trafficking of illicit drugs to this area from South America.

2. During the course of the investigation of the drug trafficking and money

laundering activities of the Jorge ROCA-Suarez ("ROCA") cocaine trafficking and money laundering organization, numerous documents have come into my possession. Among those documents were the following:

a. Documents involving the La Ramada cocaine laboratory in Bolivia in which ROCA was charged in the Republic of Bolivia. These documents were supplied to DEA and then properly authenticated through State Department channels in Bolivia before being included as evidence in this case. Among these documents is an arrest warrant for ROCA for the crime of drug trafficking issued on October 6, 1988, attached hereto as Attachment 1.

b. Documents reflecting an investigation being conducted by the Superior Court of the Judicial District of Chuquisaca and Sucre, Bolivia, regarding the dismissal of

charges against ROCA involving the La Ramada laboratory. As a result of the Superior Court's investigation, prosecution was authorized against Judges Hugo Anez Sandoval and Hugo Mercado-Mendoza and the prosecutor on the case, Jose Palma Sandoval, for the crime of prevarication (evading the truth) as a result of their improprieties in dismissing the case against ROCA. As a result of the Superior Court's investigation, an order for the arrest of ROCA for the manufacture and trafficking of cocaine was issued by Dr. Nestor Viruex Anez, Judge of the District Criminal Court of the capital and provinces in his jurisdiction on January 16, 1989. Said warrant was authenticated by the Secretary of the Criminal Division of the Supreme Court of Bolivia on March 12, 1990. Appended hereto as Attachment 1 are copies of these documents.

c. Appended to my declaration as Attachment 2 is a copy of a newspaper article from the Santa Cruz, Bolivian newspaper El Deber, dated February 23, 1991, pertaining to the narcotics charges against ROCA and the massive fortune that ROCA, aka "Techo de Paja", has accumulated.

d. Appended to my declaration as Attachment 3 is a copy of false identification documents that ROCA has used to conceal his identity. These documents were seized at the home of ROCA during the search of his residence on December 13, 1990. These documents are a national identification card, an operating license, and vaccination records with numerous passport-size photographs of ROCA. These documents reflect that ROCA has used the alias Rafael Roda Salas.

3. I have been advised by DEA agents in Bolivia that Roca's mother and sister, Blanca Suarez and Asunto Roca, were recently

arrested in Bolivia pursuant to the San Diego indictment. At the time of her arrest, Blanca Suarez told the agents that she had lived in Los Angeles for over 20 years until the arrest of her son JORGE ROCA-SUAREZ. Both Blanca Suarez and Asunto Roca give Los Angeles addresses as their place of residence, evidencing that they left the Los Angeles area to evade prosecution.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this (3rd) day of July, 1991 at San Diego, California.

/s/

STEPHEN P. SKAGGS
Special Agent
Drug Enforcement
Administration

ATTACHMENT

No. 1

LAW.

That, in addition to this, Dr. Maritza Castellon Soruco, accuses Dr. Hugo Anez Sandoval of prevarication in the criminal suit for the manufacture and traffic of narcotics followed by the Public Prosecution against Oscar Roca Vazquez. "El Cantante" (The Singer), because in the region of "Valle Hermoso", Yacuma Province of the Department of Beni, a very sophisticated cocaine laboratory was found, and in the next ranch (hacienda) "Las Vegas" a small aircraft was seized, a proceeding which was carried out against Oscar Roca Vazquez, namesake of the well known drug trafficker Oscar Roca Vazquez "El Cantante", after continued proceedings against him, was declared innocent of the charges against him, and later on due to the insistence of the Public Prosecution they were able to reopen the case against the real accused person

Oscar Roca Vazquez, "El Cantante", who being summoned by publication, appeared through an attorney who filed an exception, claiming that there was no identity of persons (page 358) and that by writ of judgment (page 366, of 21st of October of 1988) revokes the writ of rejection, and declares thatthere is no case against the "Cantante" as there did not exist in the proceedings of the Judicial Police an accused, and orders the case records to be filed, the spokesman Dr. Hugo Anez Sandoval, dissident vote and acceptance of the Court the No. 1 Co-judge, Dr. Rodolfo Chavarria.

W H E R E A S ; other evidence of prevarication committed by Dr. Hugo Anez Sandoval is: in a criminal suit followed by the Public Prosecutor against Carlos Rico Rioja, ex-prosecutor of the District, having illegally released the prisoners Jorge Cuellar Antelo and Jorge Flores Moises in the Departmental Guard, for

rendering judgments contrary to the Constitution and the law. The proceedings having been followed, the constituent Judge sentenced (the defendant), but in a ruling on pages 99 - 106 of the 6th of April 1988 the sentence is revoked and (the defendant) is declared innocent, Reporter. - Dr. Hugo Anez Sandoval, supported by Dr. Nestor Bejarano. Another case, brought by the District Attorney against Jorge Roca Suarez, in the case of the operator of the "Cotoca" ranch, in which a "Greves Commander" Colombian flag aircraft registration letters HK wa s seized, in addition, a laboratory for the manufacture and crystallization of cocaine was found 5 kilometers away, due to this evidence in pages 91 - 96 the sentence was approved and confirmed, reporter. Dr. Hugo Anez Sandoval and Hugo Mercado Mendoza (Sentence which declares the defendant innocent). That, by means of documents on pages 477 - 479 of the

13th of December of 1989, charges of the District Attorney against Hugo Rivero Villavicencio, for the offense of manufacture and traffic, whose ruling approves and confirms the sentence of the defendant, dissident vote of Dr. Rivero, because the evidence was found at

of the property was not in order, but the return was ordered, recorder.- Dr. Hugo Anez Sandoval and Pablo Toledo, Co-Judge.

W H E R E A S : Dr. Hugo Anez Sandoval offers written proof of pages 109 - 156, consisting of the acts and judgments of the proceedings brought by the District Attorney against Oscar Roca Vazquez, Jorge Roca Suarez, as well as the proceedings of the recourse of Habeas Corpus interposed by the petitioner Blanca Suarez, in representation of her son Jorge Roca Suarez, "Techo de Paja" (Straw Roof). The certifications of pages 201 -

421, 212-218, 289; certificates of pages 314 - 316, 308 -387, 390 - 421, 423 - 485, all ref ferring to the proceedings indicated previously that vouch for the good conduct and performance of the functions of Dr. Hugo Anez Sandoval. In addition there appear declarations answering the charges by Drs. Arnoldo Mendez Rodriguez, page , Osben Rodriguez Rivero, page 281 over, Edgar Moreno Mirales, page , who vouch for the conduct of Dr. Anez Sandoval and state that his actions adhere to the law, they are correct, that

That Dr. Hugo Mercado Mendoza offers the text of pages 4 - 225, 288 - 290, 483, referring to the charges, vouch for his conduct, no complaint against him exists; newspaper cuttings express the prohibition to prosecutors of issueing Warrants for Arrest, articles issued by the Superior Court of La Paz. In addition the witnesses Carlos Fernando Vargas

Salinas and Teresa Rivero de Cusicanqui declare respectively, pages 250 - 251, the first vouches for the conduct of Dr. Mercado and the second states that he is an honest person in the performance of his functions and does not know of any complaints against him.

That Dr. Jose Palma Sandoval offers the text of pages 256 - 276 which vouch for his conduct, duties performed and declarations in his favor by the witnesses Arnoldo Mendez Rodriguez, page 280, Osben Rivero Rodriguez, page 281, Antonio Franco Gutierrez, page 309 and Carmen Sonia Villar de Bause, page 311. The first two vouch for the conduct of the Ex-District Prosecutor, Dr. Palma, the third states that his acts have been ethical and the fourth affirms that she has not observed anything incorrect in the performance of Dr. Palma.

W H E R E A S : the evidence for the prosecution contained in pages 1-54, 46-106, 286, 318-377, 425-475, 477-479 and 503, referring to the performance of issuing judgments on the part of Dr. Hugo Anez Sandoval, the injunctions issued by Dr. Jose Palma in accordance with Dr. Anez Sandoval, that instead of representing the State and society, they do so in favor of the defendants.

C O N C L U S I O N S :

HABEAS CORPUS APPEALED BY BLANCA SUAREZ IN FAVOR OF HER SON JORGE ROCA SUAREZ "TECHO DE PAJA" (STRAW ROOF) IN THE CASE OF THE OPERATION OF THE "LA RAMADA" PROPERTY.

a).- The accused repudiate the function of the Prosecutor Alfredo Sejas Vallejos as he is not registered as an attorney in the Department of Beni, and state that his designation is not by the they did not take into account that this authority has national jurisdiction).

b).- They deny the delinquent history of Jorge Roca Suarez, son of the appellant (in spite of the existence of informative declarations of Carlos Antelo Tabari and Javier Arteaga Leal), to the effect that he is the proprietor of the hacienda "La Ramada", as well as the cocaine factory.

c).- They order the immediate remission of the records of the operation in the hacienda "La Ramada" to the Departmental Office of Narcotics, so that they be rectified and to disprove the informataive declarations of the detainees.

d).- They affirm that the violation of the rights and fundamental guarantees of the son of the appellant has been proved and most abundantly demonstrated particulars diminished by the records on page 503.

CRIMINAL PROCEEDINGS AGAINST OSCAR ROCA SUAREZ (VAZQUEZ), IN THE ACTION OF THE "VALLE HERMOSO" RANCH, AND THE SEIZURE OF

AN AIRCRAFT AT THE "LAS VEGAS" RANCH.

a).- In this action there was also found a well installed cocaine factory.

b).- Criminal process for traffic and other controlled substances against Oscar Roca Suarez (a nonexistent person), and not against the know perpetrator OSCAR ROCA VAZQUEZ "EL CANTANTE", the first is declared innocent, and when the latter is charged for these offenses, his attorney files an appeal of former adjudication (res judicata), the Judge of the plenary rejects the exception and this is repealed by means of a writ of judgment, the motivating writ is revoked and the exception is accepted and the records are ordered to be sent to the files. Without there existing the identity of parties, whose relator is Dr. Hugo Anez Sandoval.

W H E R E A S : the accused at the time of pronouncing their judgments have acted with manifest partiality and with evident signs

of favoring the known traffickers Oscar Roca Vazquez, "El Cantante" and Jorge Roca Suarez "Techo de Paja" and another, because in spite of the body of the crime being in the operation of the haciendas with well installed factories, precursors, etc. etc. in the phase of passing judgment, avoid the trial of these persons, (justice) is manipulated so that they are not prosecuted (the accused Judges & Prosecutor) appear as unconditional servants of (the traffickers), and for this reason it is evident that apart from the incorrect rulings of the accused, the direct desire to favor those charged with drug trafficking, known national and international drug traffickers, Oscar Roca Vazquez "El Cantante" and Gorge Roca Suarez "Techo de Paja', in whose trials the characteristics of assistance and cooperation is apparent on the part of the administrators of justice Drs. Hugo Anez Sandoval, Hugo Mercado Mendoza

and Jose Palma Sandoval, to impede and shorten the proceedings against them. As more evidence there are the other proceedings already indicated with explanatory dissents. That, Jose Palma Sandoval, having acted in the proceedings (illegible) as Prosecutor, he has not acted competently and the prevarication is typified for the judges or those who carried out functions of "decision or resolution" so that for this defendant there exist sufficient indications of guilt of having been an instigator and accomplice in the offense of prevarication, greater proof and clarification of the same will be provided in the proceedings of the case and before the Supreme Court.

T H E R E F O R E : the Open Court of the Respectable Superior Court of the Judicial District of Chuquisaca, in accordance with the injunction of the Prosecutor of the District on page 508, decrees prosecution of

the accused Hugo Anez Sandoval, Hugo Mercado Mendoza and Jose Palma Sandoval, whose personal particulars appear on pages 189 - 195, respectively, for the offense liable in the sanction of Article 173 for the first two and the last for the crime liable in Article 173 with regard to Articles 22 and 23 all of the Criminal Code, as there exist sufficient indications of guilt in the commission of the crimes listed. The issue of formal warrants for the arrest if the defendants is or ordered, in accordance with inclusion 9) of Article 222 of the adjective Code on the subject, to be placed at the disposal of the Supreme Court which should try them. Submit to the Most Excellent Supreme Court of Justice, of the Nation these records, in accordance with Article 273, last paragraph of the aforementioned law, and let it be with a note to their attention.

Record. Relator: Luis Molina Canizares.

(signature)

Dr. Marcel Toro Wayar

President of the Superior Court

of Chuquisaca

(signature)

Dr. Francisco M. Perez

Subdeacon of the Superior Court

of Chuquisaca

(signature)

Dr. Luis Molina Canizares

Member of the Superior Court

of Chuquisaca

(signature)

Dr. Jorge Caballero Cuellar

Dean of the Superior court

of Chuquisaca

(signature

Dr. Cloodaldo Flores Dominguez

Member of the Superior court

of Chuquisaca

(signature)

Dr. Jose M. Pino Tellez

Secretary of the Superior Court

of Chuquisaca.

The present photocopy corresponds to the original referred to,

Attested to. Sucre, 1st of February 1990. Two seal with the words: Superior Court of Chuquisaca - Sucre, Bolivia.

DR. MARCEL TORO WAYAR, PRESIDENT OF THE RESPECTABLE SUPERIOR COURT OF THE JUDICIAL DISTRICT OF CHUQUISACA.-SUCRE-BOLIVIA.

C E R T I F I E S :

That the signature and initials of Dr. Jose Maria Pino Tellez, set out on the photostatic copies of the decree issed within the proceedings of the Court Case -Prevarication -followed by the Public Prosecutor (District Attorney) against Hugo Anez Sandoval, Hugo Mercado Mendoza and Jose Palma Sandoval, are authentic; and the stated official is in his post as CHAMBER SECRETARY OF THE RESPECTABLE SUPERIOR COURT OF CHUQUISACA. In conseqnence, the signature and initials are (certified) as legal in the most sufficient manner

according to law.

In Sucre, Capital of the Republic of Bolivia, on the ninth day of the month of November of nineteen ninety.-

(signature)

Dr. Marcel Toro Wayar

PRESIDENT OF THE RESPECTABLE SUPERIOR COURT OF THE JUDICIAL DISTRICT OF CHUQUISACA

DOCTOR MARCELO VARGAS VACAFLOR,

PERFECT AND COMMANDER GENERAL OF THE

DEPARTMENT OF CHUQUISACA

C E R T I F I E S : That the signature and initials set down by the PRESIDENT OF THE RESPECTABLE SUPERIOR COURT OF THE JUDICIAL DISTRICT OF CHUQUISACA, DR. MARCEL TORO WAYAR that appear at the foot of the foregoing certification are authentic, and his atestations are entirely true, they are legalized in the most ample manner according to law.

Sucre, the 9th of November of 1990.

(signature)

Dr. Marcelo Vargas Vacaflor

Prefect of the Department of Chuquisaca.

In the upper left hand corner a seal that reads: Republic of Bolivia, National Issue, 0.90 Bolivians. In the center: No. 01938048. Series "B" - 90 D.S. 21124 of 15-11-85, R.M. 712 of 12-6-90. Bs.0.90 Upper right: Three stamps that read: One Bolivian.

THE PRESIDENT OF THE MOST EXCELLENT SUPREME COURT OF THE NATION Request for legalization of signature. Another request. Dr. Armando Aquino Huerta, Attorney. a Bolivian, native of La Paz, currently in this city with C.I. 460789 L.P. qualified to practice law, respectfully state and ask:

That the attached documentation must be made known to a foreign court; and for this reason the signature of the Secretary for criminal proceedings of the Court, a Judicial Official of the same, must be legalized. In accordance with the above and Article 3 of D.S. 07458 of the 30th of November of 1965, I respectfully request of your Honor to

legalize the signature of the said Secretary. In addition: The domicile to hear decisions, the Secretariat of the chamber in your charge.

Sucre, the 9th of November of 1990.

(Signature)

Dr. Armand: Aquino H. Attorney, R.C. 1481 - C.A. 600-982, C.S. 714 - B.U.S. 00212784

November 1990. I certify, (signature) Dr. Carlos Castro Rodriguez. Secretary of the Superior Court.

By the Secretary of the Chamber of Open Court, authorize the request. (signature) Dr. Edgar

Oblitas Fernandez, President of the Supreme Court of Justice.

THE SECRETARY OF THE CHAMBER OF OPEN COURT OF THE SUPREME COURT OF JUSTICE OF THE NATION.

In accordance with the above request of V.E. I CERTIFY that the signature set down on the attached legalizations is authentic on each one of the photocopies and is that of DR. NANCY GUARDIA COIMBRA, Secretary of the Criminal chamber of the Supreme Court of Justice.

Sucre, November 9th of 1990.

(signature)

Dr. Carlos Castro Rodriguez.

Secretary of the Supreme Court.

The authenticity of the signature and initials of the mentioned Secretary being

accredited, the attached is now duly legalized and ordered to be returned to the interested party.

(signature)

Dr. Edgar Oblitas Fernandez

President of the Supreme Court of the Nation

Sucre, November 10th of Nineteen Ninety.

(signature)

Dr. Carlos Castro Rodriguez

Secretary of the Supreme Court

13th of November of 1990

Legalization of the signature of:

Dr. Edgar Oblitas Fernandez

President of the Supreme Court of Justice of the Nation

(signature)

Dr. Dalcy Cabrera Rios

Director of the department of legalizations

Ministry of Foreign Relations

A seal that reads: Ministry of Foreign Relations, La Paz, Bolivia.

IN THE NAME OF THE LAW

DR. NESTOR VIRUEZ ANEZ, JUDGE

OF THE DISTRICT CRIMINAL COURT

OF THE CAPITAL AND PROVINCES

IN HIS JURISDICTION

ORDERS.- That, the Proceedings Officer of this Court, after a notification that he will make to the Governor of the Public Prison of our city, place under formal arrest in this establishment the defendant

= = = = = = = = JORGE ROCA SUAREZ = = = = =

Who is accused of the crimes of MANUFACTURE AND TRAFFIC OF COCAINE, sanctioned in accordance with Articles 37 and 4-44 of the D.L. No. 18714 of the 25th of November of 1981 in conformity with Articles 47 and 48 of Law 1.008 of July, 1988.

when these proceedings are completed advise this court that formal imprisonment has been carried out.

Trinidad, 16th Day of January 1989.

(signature)

Dr. Nestor Viruez Anez

Judge of the Criminal Court

Trinidad & Beni, Bolivia

BY ORDER OF THE JUDGE

(signature)

Fernando

Secretary of the Criminal Court

Trinidad & Beni, Bolivia

THE PRESENT PHOTOCOPY IS A TRUE
AND AUTHENTIC COPY OF THE ORIGINAL
ATTEST TO THIS. 12 of March 1990

(signature)

Dr. Nancy Guardia Coimbra

Secretary of the Criminal Division

of the Supreme Court of the Nation.

ATTACHMENT

NO. 2

Ley antinarcóticos presenta un vacio para la investigación de fortuna de "Techo de paja"

-Esperan respuesta de la Corte Suprema-

Segun el tribunal primero de Sustancias Controladas y analistas en materia de derecho, la ley antinarcoticos 1008 carece de mecanismos tecnicos juridicos para hacer efectivo el proceso de investigacion de la fortuna dudosa de Jorge Roca Suarez. "Techo de paja", considerado por la DEA el numero uno del narcotrafico en Bolivia y que ahora esta preso en Estados Unidos. Tras la detencion del individuo, el Ministerio Publico ordeno la incautacion de sus bienes en nuestra ciudad y la investigacion de la fortuna que acumulo. Este requerimiento, con mas documentacion de la Corte de Distrito del pais del Norte fue radicado en el

Jorge Roca Suarez, "Techo de paja", juzgado en Estados Unidos por delito de narcotrafico, aparece con hermosos ejemplares de caballos pura sangre en alguna de sus propiedades.

juzgado primero de Sustancias Controladas a cargo de los doctores Orlando Bersati Tudela, Arutor Rios Arauco y Saul Saldana Secos.

Los jueces antinarcoticos, al tener en su poder dicho requerimiento y los obrados remitidos de los Estados Unidos, decidieron consular a traves de la Corte Superior de Distrito a la Suprema de Sucre, para ver los mecanismos a emplear en cuanto a la solicitud de investigacion de la riqueza de Jorge Roca Suarez. En un memorial dirigido a la Suprema, los jueces manifestan preocupacion porque la Ley 1008, segun dicen, adolece de los mecanismos tecnicos y juridicos que viavilcan la investigacion. Ante esta situacion, esperan la respuesta del maximo tribunal para ver si aplican el mismo procedimiento ordinario, o el de la Policia, cual es el de levantar las diligencias de policia judicial.

Mientras tanto, el proceso que radica en el tribunal desde mediados de febrero, se halla practicamente en statu quo. Sin embargo, los nombrados jueces, asi como analistas juridicos, consideran que la Corte Suprema no tiene facultad para reglamentar o modificar una ley, y posiblemente la respuesta sea reconocer el vacio que existe en este precepto legal, toda vez que el Poder Judicial no legista sino juzga, aplica la ley que ha sido sancionada por el Poder Legislativo y promulgada por el Ejecutive conforme al procedimiento que establece la Constitucion.

SOLUCION Y OBRADOS

Este vacio de la Ley de Sustancias Controladas se puede subsanar mediante una ley

complementaria o a traves de un decreto supremo que debera regir desde el momento de su publicacion, conforme el articulo 33 de la Constitucion Politica del Estado, segun los aludidos magistrados antinarcoticos y especialistas en el campo del derecho.

Los jueces primeros de Sustancias Controladas, asimismo, consideran que las diligencias que envio la Corte de Distrito de los Estados unidos, (del distrito Sur de California), carecen de legalidad porque se trata de simples fotocopias en idioma ingles con antecedentes de la actividad de Jorge Roca Suarez y que deberan ser traducidas previa orden judicial. Senalan que las copias para que tengan validez primero deberan ser legalizados por la Cancilleria de la Republica, ademas de otras formalidades que den cumplimiento al Decreto Ley 07458 emitido el 31 de diciembre de 1965 por el Gral. Rene Barrientos Ortuno y el Gral. Alfredo Ovando Candia. Este decreto establece "que es necesario determinar el procedimiento que debe seguirse para obtener la legalizacion de las firmas de documentos que surtiran efectos legales tanto en el interior como en el exterior del pais, haciendo la designacion de las autoridades y funcionarios facultados para efectuar dichas legalizaciones, a fin de que los documentos tengan validez".

HACIENDA HORIZONTE

El Ministerio Publico requiere la investigacion de la fortuna de Jorge Roca Suarez, pero en el juzgado primero solo radica documentacion de la hacienda Horizonte

ubicada en el kilometro 17 de la carretera al Norte y de una casa incautada en el barrio Sirari. En cuanto a la hacienda, se presentaron los representantes de la Sociedad Agropecuaria industrial Limpias y Cia. S.R.I., Jose Ernesto Limpias Chavez y Jose Ernesto Limpias Gutierrez, quienes senalaron, mostrando documentatos, ser duenos legitimos de la propiedad, la que adquirieron el 7 de diciembre de 1990 de los esposos Gerardo Villagomez Rosales y Miriam Roca de Villagomez. Dicha hacienda abarca 789 hectares y fue comprada en aproximadamente 700 mil dolares, con mas los bienes consistentes en caballos pura sangre, ganado vacuno y plantaciones agricolas, segun dijeron.

Los representantes de dicha Sociedad Agropecuaria, ante la incautacion preventiva de "Horizonte" al existir sospechas de que su propietario sea Jorge Roca Suarez, plantearon un amparo constitucional contra Narcoticos y Ministerio Publico, alegando que "Techo de paja" nada tiene que ver con la propiedad y que ellos presentaron la documentacion respectiva, por lo que exigiran que se suspenda la incautacion. El amparo fue declarado improcedente por la Corte del Distrito, que a la vez ordeno que el caso se sustance en el juzgado primero antinarcoticos a cuyo tribunal los interesados deberian acudir y presentar cualquier documentacion. El fallo emitido por la Corte fue considerado ilegal por los representantes de la empresa agroindustrial, reiterando que la hacienda les pertenece y que alli nunca se encontro droga ni elemento que constituya delito como para que sea incautada.

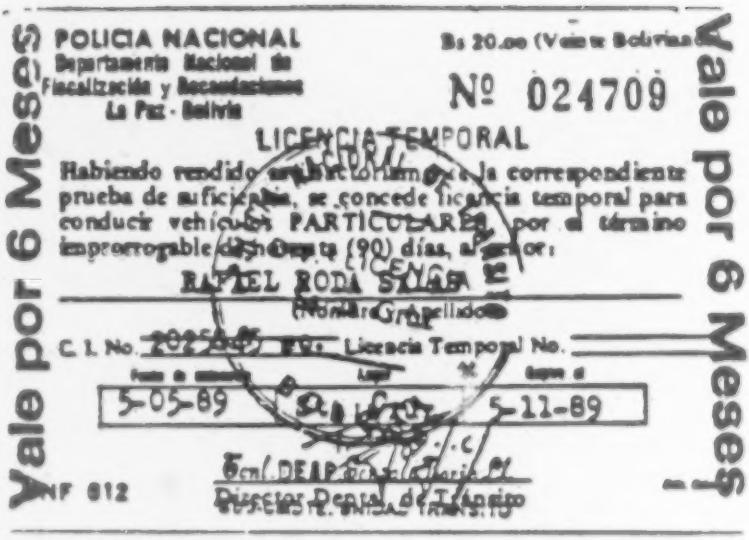
CASA DE SIRARI

Tambien fue presentado a un amparo constitucional contra Narcoticos y Ministerio Publico por el abogado Napoleon Franco Limpias, en representacion de Blanca Suarez y Beatriz Roca, madre y hermana de Jorge Roca Suarez, por la incautacion de un inmueble ubicado en el barrio Sirari. La demanda senalaba que las nombradas son duenas de la casa y que nada tiene que ver el detenido. Este amparo igualmente fue declarado improcedente por la Corte del Distrito, que instruyo a la vez que la causa radique en el juzgado primero de Sustancias Controladas.

Son estos dos casos que ahora radican el tribunal, pero la investigacion de la fortuna que se supone tiene "Techo de paja" esta en statu quo, debido a la consulta que los jueces han hecho a la Suprema.

ATTACHMENT

NO. 3



POLICIA NACIONAL
Departamento Nacional de Fiscalización y Recaudaciones
La Paz - Bolivia

Bs 20.oo (Veinte Bolivianos)

Nº 024709

LICENCIA TEMPORAL

Habiendo rendido satisfactoriamente la correspondiente prueba de suficiencia, se concede licencia temporal para conducir vehículos PARTICULARES por el término improrrogable de noventa (90) días, al señor:

RAFAEL RODA SALAS
Nombre Grado Apellidos

C. I. No. 2025[illegible] Exp. Licencia Temporal No.

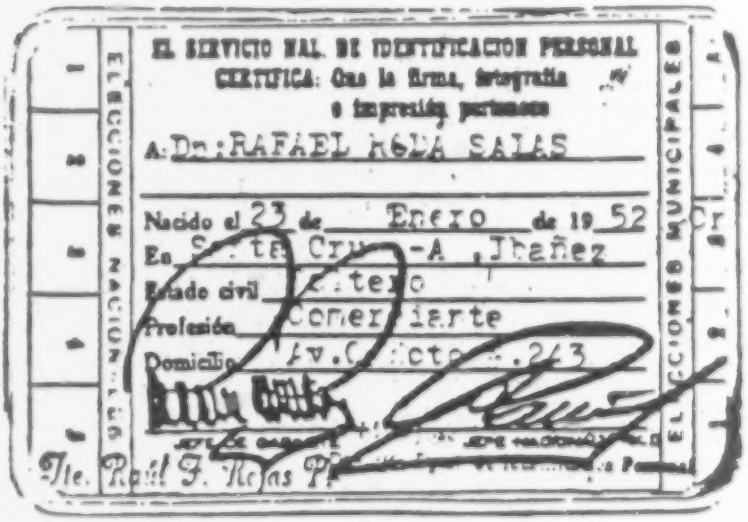
Fecha de emisión	Lugar	Fecha de vencimiento
5-05-89	[illegible]	5-11-89

Tcnl. DEAP [illegible]
Director Depto. de Tránsito

NF 812

Vale por 6 Meses

Vale por 6 Meses



EL SERVICIO NAL. DE IDENTIFICACION PERSONAL
CERTIFICA: Que la firma, impresión y
a impresión pertenece

A: Dn: RAFAEL RODA SALAS

Nacido el 23 de Enero de 19 52
En Santa Cruz - A. Ibañez
Estado civil Casado
Profesión Comerciante
Domicilio Av. Cristo [illegible] 243

Tte. Raúl F. Reyes P.

ELECCIONES NACIONALES

ELECCIONES MUNICIPALES

INSTRUCCIONES

1o. Esta licencia NO da derecho a conducir vehículos de SERVICIO PUBLICO ni transportar carga o pasajeros, la contravención será penada de acuerdo a Reglamento.

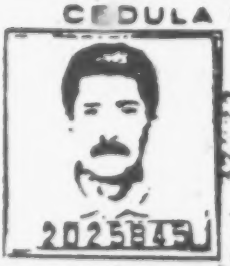
2o. En la fecha de expiración debe ser renovada en la Dirección Departamental de Tránsito.

3o. La presente licencia se invalida a la expiración de la fecha y debe ser renovada previa adquisición de un nuevo formulario valorado.

Firma del Interesado

REPUBLICA DE BOLIVIA

CEDULA DE IDENTIDAD



No. 2025845 de La Paz

Santa Cruz 5 de April de 19 85

Válida hasta el 5 de [illegible] de 19 91

FIRMA DEL INTERESADO

RES. MIN. No. 244 R. S. 50

MINISTERIO DE SALUD PUBLICA
BOLIVIA-SUD AMERICA

CERTIFICADO INTERNACIONAL DE VACUNACION
INTERNATIONAL CERTIFICATES OF VACCINATION
CERTIFICATS INTERNATIONAUX DE VACCINATION

SERIE A Nº 051247

Nombre Rafael Bodar S.
SALIDA A
ISSUED TO
DÉLIVRÉ À

PASAPORTE No.
PASSPORT No.
OR
TRAVEL DOCUMENT No.
NUMERO DU PASSEPORT
OU
DE LA PIÉCE JUSTIFICATIVE

RES. MIN. No. 244 Bs. 50

MINISTERIO DE SALUD PUBLICA
BOLIVIA-SUD AMERICA

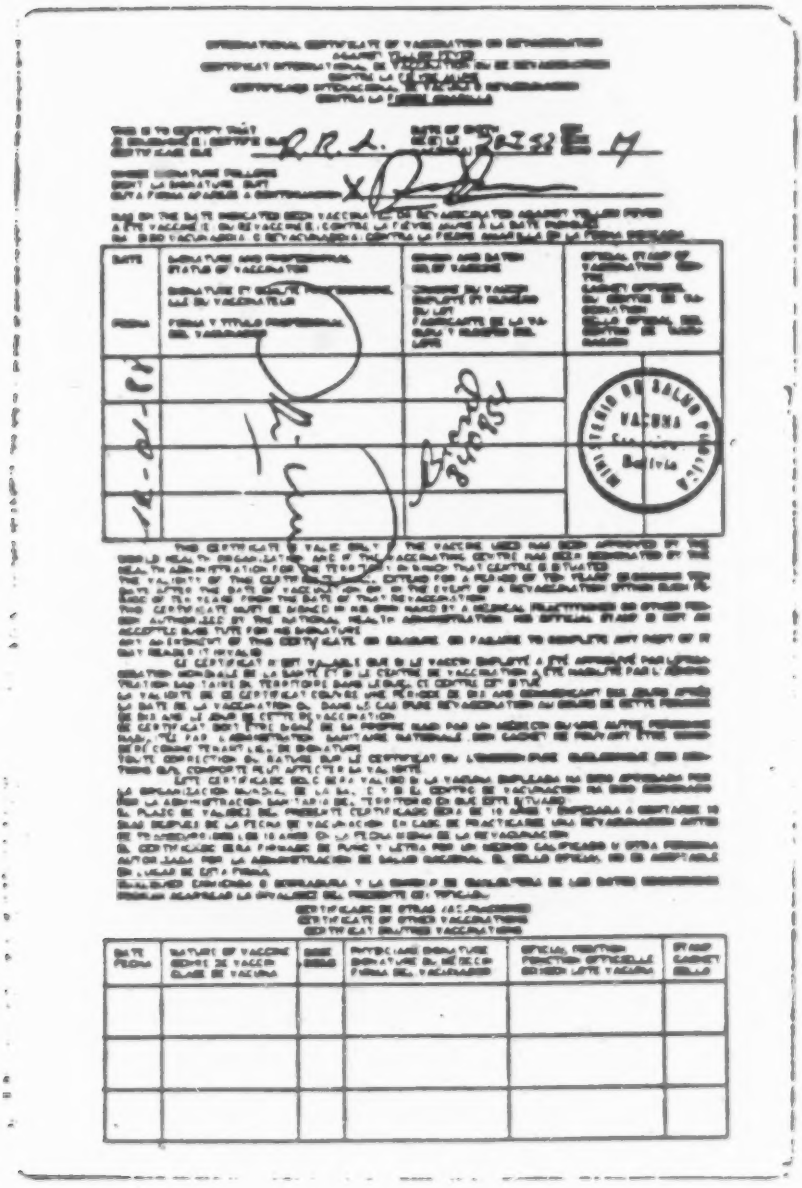
CERTIFICADO INTERNACIONAL
DE VACUNACION
INTERNATIONAL CERTIFICATES
OF VACCINATION
CERTIFICATS INTERNATIONAUX
DE VACCINATION

SERIE A Nº C43465

Nombre Rafael Rodas Sales

SALIDA A
ISSUED TO
DELIVRE Á _____

PASAPORTE No.
PASSPORT No.
OR
TRAVEL DOCUMENT No.
NUMERO DU PASSEPORT _____
OU
DE LA PIÈCE JUSTIFICATIVE _____



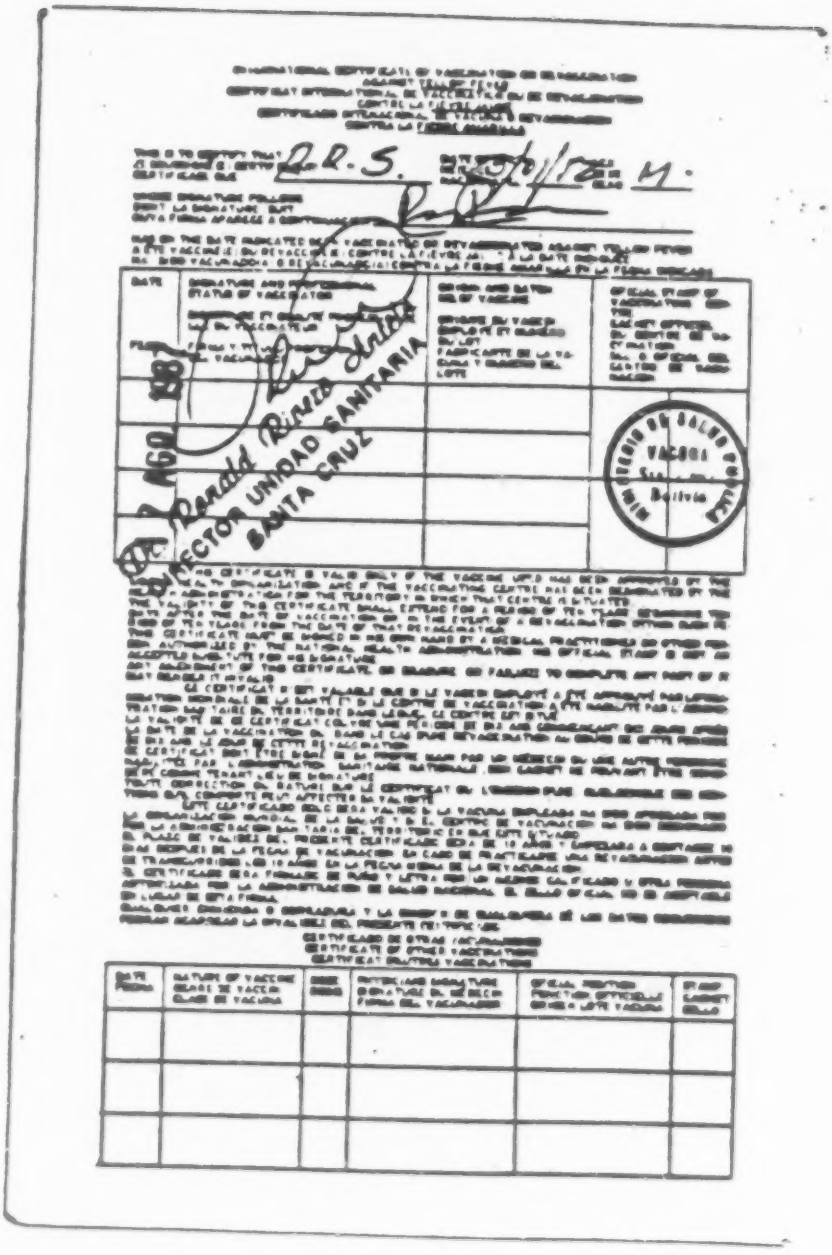

DIRECTOR UNIDAD SANITARIA
SANTA CRUZ
VACUNA
Bolivia

EXHIBIT B

DOCUMENT #2

At the upper left, a seal and the words: Superior Court of the Judicial District of Chuquisaca.

No. 13. DISTRICT ATTORNEY VS. DRS. HUGO AÑEZ SANDOVAL AND HUGO MERCADO MENDOZA, MEMBERS OF THE SUPERIOR COURT OF BANI AND JOSE APLMA SANDOVAL, PROSECUTOR OF THE SAME DISTRICT.

P R E V A R I C A T I O N

Sucre, January 4th of 1990.

WHEREAS: -In open court and in findings, the abstract of criminal accusation of Dr. Samuel Achá Beichner, Prosecutor of the District attached to the Subsecretariat of Social Defense; the charge made by Dr. Alfredo Sejas Vallejos, District Criminal Prosecutor of the Subsecretary of Social Defense, accusation of Drs. Maritza Castellon Soruco, District Prosecutor of the Trinidad Capital, against Drs. Hugo Añez Sandoval and Hugo Mercado Mendoza, Members of the Superior Court of Justice of Beni, and Jose Palma Sandoval,

a Prosecutor of the same District, for the offense of prevarication; the requirement of the District Prosecutor on page 508, and W H E R E A S : By means of a decree issued in Open Court by the Ministers of the Most Excellent Supreme Court of Justice of the Nation, in use of Article 227 of the Code of Criminal Procedures, order the opening of criminal proceedings in a Court Case against the members of the Superior Court of Beni. Drs. Hugo Añez Sandoval and Hugo Mercado Mendoza, and against the Prosecutor of the same district, Dr. Jose Palma Sandoval, for the offense of prevarication, sanctioned by Article 173 of the Criminal Code. That, in accordance with the attribution of Article 272 of the Code of Criminal procedures, in fine, Dr. Edgar Oblitas Fernandez, President of the Supreme Court, on page 175, by means of a decision dated the 14th of March of 1989, designates Dra. Emilse Aradaya Gutierrez,

Second District Judge of the Civil Court of the City of Trinidad to hear the criminal case against the mentioned defendants.

W H E R E A S : The commissioned Judge initiated the proceedings by means of the provisions of Page 177 over, received the investigatory declarations of the accused, whose statements run from pages 190 to 195, and after receiving these declarations and within the time provided by Article 171 of the Code of Criminal Proceedings, received the evidence for the prosecution and defense and with its result submitted to this Court the respective report which runs from pages 483 to 493.

With this record the cognizance of this District Court is opened to issue the final decree of the proceeding, in accordance with Article 273 first paragraph of the mentioned Code.

W H E R E A S : having carried out a minute examination of all the files of the case and

the evidence offered and produced during the proceedings, both of the prosecution and the defense, the following elements are considered which serve to draw conclusions in detail as follows:

That Prosecutor Samuel Achá Bleichner with evidence existing before the trial in pages 1 to 54 charges prevarication by the Members of the Superior Court of Beni, Alfredo Sejas Vallejos. Alfredo Sejas Vallejos brings charges on pages 58 to 60, against the already indicated Members, also for prevarication. And finally Dr. Maritza Castellon Soruco on pages 61 to 63 accuses the Members of Beni, Drs. Hugo Añez Sandoval and Hugo Mercado Mendoza, to the effect that these officials of UMOPAR BENI, in an operation carried out at a rural property called "La Ramada", located in Yacuma province of the Department of Beni, on the 4th of October of 1988, a laboratory for the oxidation of cocaine

sulphate with a filtering process in full operation. Arresting javier Arteaga Leal and Carlos Alberto Tabari at a place nearby, who stated that the owner of the hacienda and the laboratory was JORGE ROCA SUAREZ ("Techo de Paja") proceedings of the Judicial Police on pages 66 to 106), and whose mother Blanca Suarez, attaching photostatic copy of the Court Order issued by Dr. Alfredo Sejas Vallejos, District Criminal Prosecutor attached to UMOPAR BENI filed an appeal of Habeas Corpus against the Commander of UMOPAR and the attached Prosecutor, petition which the criminal section of the Superior Court of the Judicial District of Beni, in accordance with the injunction of Dr. Jose Palma Sandoval, DECLARES IN ORDER, and said warrant for arrest null and without effect, and orders UMOPAR to send the records preceedings of the judicial police) to the office of Narcotics and the District Attorney

for LEGAL EFFECTS. This recourse of Habeas Corpus is remitted to the Supreme Court which in Supreme Act No. 113 of the 30th of March of 1989 is declared CONTRARY TO OFFICE OF THE DISTRICT ATTORNEY

REPUBLIC OF BOLIVIA

ARREST WARRANT

DR. ALFREDO SEJAS VALLEJOS, DISTRICT CRIMINAL PROSECUTOR ATTACHED TO THE BENI RURAL MOBILE PATROL UNIT, IN REPRESENTATION OF THE STATE AND SOCIETY, IN THE NAME OF THE LAW:

ORDERS any police, military, judicial and/or administrative authority of the Republic, to DETAIN:

J O R G E R O C A S U A R E Z

in order to prove the "Corpus delicti: as there exist sufficient indications of guilt in the commission of the crime of drug trafficking, it being a flagrant and grave offense. The present order authorizes the search and insepction of any domicile for its performance, and nonworking days and hours are

authorized. In the case of resistance the assistance of police power is required. This order is issued in accordance with articles 46 inclusion 1), 91 inclusion 2), 1112, 113, 114, 115 inclusion 3) and 116 of the Code of Criminal Proceedings, 186, 187, 197 and 198 of the Law of Judicial Organization and Special Laws in force.

Trinidad, the 6th of October of 1988.

(signature)

ALFREDO SEJAS VALLEJOS

District Criminal Prosecutor

ATTACHED TO UMOPAR=BENI

This photocopy is a true and authentic copy of the original. Attested to. Sucre, 12th of March 1990.

(signature)

Dr. Nancy Guardia Coimbra

Secretary of the Criminal Division

of the Supreme Court of the Nation.

DECLARATION OF
IRS SPECIAL AGENT
KENT GREENBERG

I, Kent Greenberg, hereby declare as follows:

1. I am a Special Agent with the Internal Revenue service, Criminal Investigation Division. I have been a Special Agent for over fifteen years. For over six years I have been assigned to the Organized Crime Drug Enforcement Task Force (OCDETF). Since being assigned to work on OCDETF cases I have been involved in over one hundred investigations of money launderers/narcotics traffickers

2. I have been assigned to work on the OCDETF investigation of JORGE ROCA-SUAREZ and his family members and associates. In the course of this investigation, we have conducted an extensive investigation into the financial background of ROCA, his mother, Blanca Suarez, his wife, Cirila Roca, and

two sisters Beatriz Roca and Vilma Roca.

3. We discovered that prior to 1985, the Roca's owned very little: They had a total of four bank accounts and owned three real estate properties. Of the three real estate properties they owned, two went through foreclosure proceedings. The only business which JORGE ROCA owned and operated, Roca Auto Sales, became defunct as a result of tax liens imposed on it, Labor Board complaints, and problems with the Department of Motor Vehicles.

During 1985 and thereafter, the Rocas opened bank accounts throughout Los Angeles County. In 1985 the Rocas also began to purchase numerous real estate properties in the Los Angeles area with large cash down payments. By 1987, they held more than twenty-five bank accounts.

4. The following is a listing of properties purchased by the Rocas and the

cash amounts that were deposited into escrow during the years 1985 and 1986:

A. 118 North Marguerita, Alhambra, California

Date purchased: May 15, 1985.

Total cash deposits between May 16, 1985 and June 26, 1985: $257,420.

B. 26 North Valencia Street, Alhambra, California

Date purchased: July 2, 1985.

Total cash deposits between July 2, 1985 and August 26, 1985: $179,800.

C. 808 North Second Street, Alhambra, California

Date purchased: June 27, 1985.

Total cash deposits between August 2, 1985 and August 14, 1985: $577,000.

D. 735 South Chapel, Alhambra, California

Date purchased: June 19, 1985.

Total cash deposits between June 19, 1985 and October 4, 1985: $553,400.

E. 428 North Bushnell Avenue, Alhambra, California

Date purchased: May 2, 1986.

Total cash deposit: $10,000.

F. 351 La Mancha Place, Monterey park, California

Date purchased: June 2, 1986.

Total cash deposits between June 3, 1986 and August 21, 1986: $47,707.

G. 2925 West Hellman, Alhambra, California

Date purchased: June 3, 1986.

total cash deposits between June 6, 1986 and July 1, 1986: $175,000.

The above cash deposits amount to $2,315,167.

4. JORGE ROCA-SUAREZ only declared the following gross income on his tax returns for the years 1983 through 1988:

A. 1983 - $7,993

B. 1984 - $8,990

C. 1985 - $121,385

D. 1986 - $66,313

E. 1987 - $112,896

F. 1988 - $55,766

5. On June 25, 1991, IRS Special Agent Vilma Sujodolsky related to me the following information: On December 13, 1990, she was assigned to execute an arrest warrant on Blanca Suarez, the mother of JORGE ROCA-SUAREZ, at her residence on El Molino in Alhambra, California. Upon arriving at the location she observed a woman who fit the

description of Blanca Suarez and whom she believed to be Blanca Suarez. Prior to executing the arrest warrant, Special Agent Sujodolsky left the location to obtain additional officers to assist her in the arrest. Upon returning to execute the warrant, she found the residence vacant and the woman no longer there.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of July, 1991, at Los Angeles, California.

/s/
Kent Greenberg
IRS Special Agent

EXHIBIT C

DECLARATION OF
U. S. CUSTOMS SENIOR SPECIAL AGENT
GARY W. INTINARELLI

I, GARY W. INTINARELLI, being duly sworn, hereby depose and say:

1. I am a Senior Special Agent with the U.S. Customs Service, Office of Enforcement. I have been a Special Agent with U. S. Customs since October 1983. During my assignment with the Organized Crime Drug Enforcement Task Force (OCDETF), I have been involved in numerous investigations of money laundering/narcotics trafficking. I initiated the OCDETF investigation of Jorge ROCA-SUAREZ, his family members, and associates, based on information received from U.S. Customs, Miami, florida.

2. In March 1986, I recieved information from Special Agent Michael S. Cochran, U.S. Customs, Miami, Florida, that an upright freezer had been seized containing

$2,000,128.00 in U.S. currency. The freezer had been shipped from Los Angeles via Miami with a final destination of Santa Cruz, Bolivia.

3. On April 2, 1986, I again received information from U.S. Customs in Miami that two additional shipments originating from the Los Angeles area via Miami to Santa Cruz, Bolivia, had been examined by U.S. Customs and found to contain U.S. currency. One shipment contained $500,000,00 in U.S. currency concealed inside of two stereo speakers; the other shipment contained $398,950.00 in U.S. currency hidden inside two Panasonic vacuum cleaners. Both shipments were subsequently seized.

4. Utilizing the serial number of the freezer, I backtracked the freezer to Howard's Appliance and T.V., 300 E. Valley Blvd., San Gabriel, California and obtained the sales invoice for the freezer. I also

obtained additional sales invoices of other items including the panasonic vacuum cleaners. The information on the invoices lead me to Jorge ROCA-SUAREZ, his family members, and associates, as having purchased numerous items from Howard's.

5. During the investigation, I documented direct ties between Emilio DIAZ, and the ROCA-SUAREZ family. DIAZ was arrested by U.S. Customs in Miami, on April 14, 1986, for attempting to smuggle $879,730.00 in U.S. currency to Santa Cruz, Bolivia, from Los Angeles.

6. In February 1987, I received information from Special Agent Woodrow Kirk, U.S. Customs, Miami, that Jorge ROCA-SUAREZ had been the intended recipient of $1.16 million in U.S. currency, at the Omni International Hotel, Miami. Roberto RODEN-ORTIZ had been stopped enroute to the Omni Hotel with the currency. When questioned by

Customs agents, ORTIZ gave them the name "George" or "Jorge" and a particular room number. A door knock at the room in the Omni Hotel was answered by Jorge ROCA-SUAREZ. Jorge ROCA-SUAREZ also had in his possession approximately $31,000.00 in cash.

7. On December 13, 1990, the four and one-half (4 1/2) year investigation culminated with the arrest of Jorge ROCA-SUAREZ, his wife Cirila, other family members and associates. A search warrant executed at ROCA's residence resulted in the discovery and seizure of approximately $106,000.00 in U.S. currency wrapped in duct tape. The Los Angeles investigation determined that Jorge ROCA-SUAREZ had invested heavily in real estate in the Los Angeles area. Numerous bank accounts were also uncovered during the investigation. Subsequent to Jorge ROCA's arrest, sixteen properties with an estimated value of $10 - 12 million

was seized by the Government. Additionaly, twenty-one (21) bank accounts totaling approximately $260,000.00, held by Jorge ROCA and other family members, were also seized. Also seized was an $80,000.00 Mercedes Benz purchased by Jorge ROCA, and a $32,000.00 Nissan sports car purchased for ROCA's nineteen year old son, George Jr.. All of the assets seized were believed to have been purchased with proceeds from Jorge ROCA-SUAREZ's narcotics trafficking activities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of July, 1991, at Irvine, California.

/s/
Gary W. Intinarelli
Senior Special Agent
U.S. Customs Service